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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

11 CR 114 (MGC)

5 XING LIN,

6 Defendant.

JURY TRIAL

7 -----x

8 New York, N.Y.

9 April 15, 2013

10:13 a.m.

10 Before:

11 HON. MIRIAM GOLDMAN CEDARBAUM,

12 District Judge

13  
14 APPEARANCES

15 PREET BHARARA,

16 United States Attorney for the  
Southern District of New York

17 PETER M. SKINNER

JENNIFER E. BURNS

18 Assistant United States Attorneys

19 JOEL S. COHEN

Attorney for Defendant

20 ALSO PRESENT: BRENDA CHEN, Fuchow Interpreter

21 DANIEL YANG, Fuchow Interpreter

LILY LAU, Fuchow Interpreter

22 DANIEL CHAN, Fuchow Interpreter

JESSICA CHACE, Paralegal

23 TIMOTHY VARIAN, Special Agent, HSI

24 JIAYING WANG, Legal Assistant

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1 (Trial resumed)

2 (In open court; jury not present)

3 THE COURT: I assume the defense has gotten the letter  
4 from the government, which I just received.

5 MR. COHEN: Yes, your Honor, I just received it, as  
6 well.

7 THE COURT: What I would like to see is a case in  
8 which the only person murdered is a third person; that is, that  
9 the person who is aimed at is the one who was killed, although  
10 by mistake. This is an entirely different scenario.

11 MR. SKINNER: Your Honor, *New York v. Diaz* is that  
12 case.

13 THE COURT: A bullet went through one into another?

14 MR. SKINNER: No, that was -- I thought you said you  
15 wanted a case where the only person murdered was that person.

16 THE COURT: Was the third person that you referred to;  
17 that is, where the person intended was killed, and by accident  
18 the bullet hit someone else, in addition, not in substitution.

19 MR. SKINNER: Your Honor, we can continue to search  
20 for that case.

21 THE COURT: I would like to see that because that's a  
22 very different scenario.

23 MR. SKINNER: Well, I think it's --

24 THE COURT: I don't want to argue it at great length  
25 now.

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1 MR. SKINNER: Very well.

2 THE COURT: But I consider that a different matter.

3 MR. SKINNER: I, of course, looked for a factual  
4 scenario identical to ours, and didn't find it. But I will  
5 continue to look for one.

6 THE COURT: Please. Because there is a big difference  
7 between shooting the wrong person and having the bullet  
8 accidentally go through the right person and hit another.  
9 That's a different scenario.

10 MR. SKINNER: It's a different scenario.

11 THE COURT: I don't want to argue it at length now,  
12 but I think it's not at all clear that these cases apply to  
13 that.

14 So in those cases, whoever was shooting thought he was  
15 shooting the right person. Here, the right person was shot.

16 MR. SKINNER: But, your Honor, there's plenty of  
17 cases --

18 THE COURT: I would like to see the closest factual  
19 case that you -- factually most similar, because cases are not  
20 collections of sentences; they are facts.

21 MR. SKINNER: And there are cases, and I can get them  
22 for your Honor, where the intended victim was also shot. The  
23 classic example is the drive-by shooting where the intended  
24 victim is sitting on a porch, another person is sitting next to  
25 him, and they are both shot. And I know I read one case with

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1 those exact facts, and I'll get that for your Honor. I don't  
2 know if I'm going to find a case where the bullet went through  
3 one person and hit another.

4 THE COURT: I understand. But I'm interested in where  
5 the bullet hit the wrong person.

6 MR. SKINNER: I will get you some more cases.

7 THE COURT: Good. Where the aim was at the right  
8 person and -- well, in our case the right person was also shot.

9 MR. SKINNER: And there's certainly cases where the  
10 right person was shot and the wrong person. And in those  
11 scenarios --

12 THE COURT: Well, I'd like to see those cases.

13 MR. SKINNER: You can have it. Okay.

14 THE COURT: It's not such a common occurrence.

15 MR. SKINNER: It's not common, but it certainly does  
16 happen.

17 THE COURT: But I would like to get as close as we  
18 can --

19 MR. SKINNER: Very well, your Honor.

20 THE COURT: -- to the factual issue.

21 All right. Let's get the jury in.

22 MR. COHEN: Your Honor?

23 THE COURT: Yes.

24 MR. COHEN: I don't know if your Honor was made aware  
25 that on Saturday, *The Times* carried an article about this

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1 trial. And the article, which was in the A Section, I think on  
2 Page A15, as well as on the online edition, was essentially  
3 cut-and-pasted from the government's 404(b) motion. It was  
4 hardly a balanced article, and it presented in the guise of  
5 news and fact --

6 THE COURT: So you want me to instruct the jury not to  
7 read the newspaper about anything relating to this case.

8 MR. COHEN: I do. But beyond that, your Honor,  
9 because of the tone of the article and because it really was so  
10 one-sided, I would ask that your Honor ask whether any of them  
11 has read it, initially telling them that there's nothing wrong  
12 if they had, but encouraging them to be candid. And then if  
13 anyone says they had, to individually question that juror as to  
14 what, if any, impact it had on them. And finally, your Honor,  
15 to instruct --

16 THE COURT: I would like to see the article. I did  
17 not --

18 MR. COHEN: I'm sorry, I actually --

19 THE COURT: I did not read the *Saturday Times* except  
20 for a few specific things.

21 MR. COHEN: I can pull it up on my laptop. I emailed  
22 it to Mr. Daniels. But I can pull it up on my laptop. He may  
23 have it, I don't know.

24 THE COURT: Do we have it? All right. Let me see it.  
25 I cannot control the newspapers. I would not try.

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1 MR. COHEN: Of course, your Honor. Nor would any of  
2 us want to live in a country where you could. But it's a  
3 concern --

4 THE COURT: I am sure that it is covered in the  
5 Chinese press. I don't know if you've read those articles, but  
6 I've seen --

7 MR. COHEN: I have read --

8 THE COURT: -- reporters from the Chinese press in the  
9 courtroom.

10 MR. COHEN: I have read them and I have to say, this  
11 is one of the rare instances where the Chinese press actually  
12 got it right, more so than *The Times* did.

13 THE COURT: Well, they understood the language of the  
14 witnesses.

15 MR. SKINNER: Your Honor, I think it's fair to say  
16 that there's been press coverage in multiple venues about the  
17 trial.

18 THE COURT: I'm sure that's true.

19 MR. SKINNER: And the Court instructed the jury not to  
20 be reading outside sources.

21 THE COURT: Right. But I will remind them --

22 MR. SKINNER: I think that's fair.

23 THE COURT: -- that they are not to read anything they  
24 see about this trial.

25 MR. COHEN: And as I was saying, your Honor, because

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1 of the tone of the article, I would ask for an instruction that  
2 anything that jurors may have seen in this article is not to be  
3 taken as fact, and the government still has --

4 THE COURT: Well, I will be happy to advise them  
5 anyhow that anything they read or see outside of the courtroom  
6 is not evidence, and they may not take it into consideration.

7 (Pause)

8 THE COURT: I don't even know where this comes from.  
9 It doesn't come from the trial.

10 MR. COHEN: Your Honor, literally it's a cut-and-paste  
11 of the government's 404(b) motion.

12 MR. SKINNER: I think he's referring to our enterprise  
13 motion.

14 MR. COHEN: I'm sorry, their enterprise evidence  
15 motion.

16 MR. SKINNER: And I don't think that it's a  
17 cut-and-paste, but the terminology "Victim 2" certainly comes  
18 from that motion.

19 THE COURT: That's not a good thing.

20 But I do not control -- nor do I seek to control --  
21 the press. But I do want the jury not to read how does the  
22 press even know or believe that the prosecutor intends to call  
23 somebody as a witness.

24 MR. COHEN: It was in the enterprise motion, Judge.

25 MR. SKINNER: You had asked us, your Honor, to proffer

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1 the basis for how we intended to prove the things included in  
2 the enterprise motion. And we said in the enterprise motion we  
3 intend to call Victim 2.

4 THE COURT: I see.

5 MR. SKINNER: And, of course, that's on public docket,  
6 which is how *The Times* got it.

7 THE COURT: Of course. Of course. Everything that's  
8 filed with the Court is -- unless it's sealed, is public  
9 docket.

10 MR. COHEN: Judge, I'm not criticizing anybody. I'm  
11 just acting out of concern that --

12 THE COURT: Of course.

13 MR. COHEN: -- my client have a fair trial. I'm not  
14 criticizing the government for filing the motion; I'm not  
15 criticizing the paper for printing the article, although I  
16 think it could have been a little more balanced. I'm simply  
17 looking to protect Mr. Lin's right to a fair trial.

18 THE COURT: Is this somebody in the court press  
19 office? I'm not familiar with the name.

20 MR. SKINNER: I don't believe he is, your Honor.

21 THE COURT: I don't think so either, because I know  
22 most of the reporters.

23 MR. SKINNER: He's not *The Times* regular correspondent  
24 stationed here.

25 THE COURT: Right. I don't recognize the name.



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1 MR. COHEN: Although there has been a *Times* reporter  
2 here every day.

3 THE COURT: That's a different matter. *The Times* has  
4 people who are in this courthouse in the pressroom everyday.

5 MR. COHEN: Right.

6 THE COURT: That's what I'm asking, whether he's one  
7 of those, because I'm not familiar with the man.

8 MR. SKINNER: I don't believe he is.

9 THE COURT: Very well.

10 Let's get the jury.

11 (Jury present)

12 THE COURT: Before we start taking testimony, I would  
13 just like to remind you that you should not read anything about  
14 this trial outside of court. And that means any newspaper  
15 article, any magazine article, or any other writing about this  
16 case.

17 Now, I'm told that -- and it doesn't surprise me,  
18 newspapers always look for copy, they always want to write  
19 about what is happening.

20 I would like to know if any of you has read any  
21 article about this case.

22 Yes.

23 JUROR: I did, in Saturday's *Times*.

24 THE COURT: Saturday's *Times*. Thank you.

25 Well, I now urge you -- and, indeed, I instruct you --

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1 that you may not read anything about this case in a newspaper.  
2 That is not evidence. That is not based on evidence. It is  
3 entirely outside of what you may consider in trying this case.  
4 So you should resist.

5 If you see any reference to this trial in a newspaper,  
6 you should turn away from that column throughout the trial. It  
7 may be tempting, but resist the temptation, because you are  
8 then reading things that are not part of the evidence in this  
9 case, and may not be considered by the jury in reaching a  
10 verdict.

11 The opinion of reporters who do not know the evidence  
12 and are not part of this case should never be considered. But,  
13 in any event, the best way to protect your minds from being  
14 influenced in the slightest by anything outside this courtroom  
15 and considering anything that is not evidence before you in the  
16 case means that you have to consciously avoid reading any  
17 newspaper article or magazine article that is about this case.

18 Very well. We will proceed with the witness.

19 MR. SKINNER: Thank you, your Honor.

20 CHEN HUO GUANG, resumed.

21 DIRECT EXAMINATION (continued)

22 BY MR. SKINNER:

23 Q. Good morning, Mr. Chen.

24 Now, you last testified before this Court on Thursday  
25 of last week, which I believe was April 11th; is that right?

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C. H. Guang - direct

1 A. Yes.

2 Q. Now, was April 11th the first day last week that you came  
3 to this courthouse in connection with your subpoena to testify?

4 A. My first day here was April 9th, but I did not testify.

5 Q. Were you also here on April 10th?

6 A. Yes.

7 Q. And when you were here on April 10th, did you see a man  
8 named Guang Zhou in the courthouse?

9 A. I bump into him downstairs of this courthouse.

10 Q. Did you know Mr. Zhou before coming to the courthouse that  
11 day?

12 A. I did.

13 Q. How long have you known him?

14 A. More than ten years.

15 Q. How do you know him?

16 A. Someone had introduced him to me in Chinatown. I don't  
17 exactly remember how I met him.

18 Q. Before coming to court last week, did you know that  
19 Mr. Zhou was going to be testifying as a witness in this case?

20 A. I did not.

21 Q. And when you were in court last week, did you talk to  
22 Mr. Zhou about the testimony you were going to give in this  
23 case?

24 A. I did not.

25 Q. Have you ever spoken to Mr. Zhou about the testimony that

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C. H. Guang - direct

1 you are going to give in this case?

2 A. No.

3 Q. Has he ever talked to you about the testimony that he was  
4 going to give in this case?

5 A. No.

6 Q. Let me direct your attention back to April 10th of last  
7 week, which was Wednesday. You were in court that day waiting  
8 to testify; is that right?

9 A. Yes.

10 Q. And did you go outside the courthouse for lunch that day?

11 A. Yes.

12 Q. Where did you go?

13 A. I was in Chinatown.

14 Q. Did you have lunch with anyone else?

15 A. I went to lunch by myself.

16 Q. Did you see anyone else during that lunch?

17 A. Yes.

18 Q. Who else did you see during the lunch?

19 A. My boss, name Dan Jian.

20 Q. Does he also go by the nickname "Cash"?

21 A. Yes.

22 Q. Who got there first, you or Cash?

23 A. I got there first. And then I called him on the phone.

24 Q. And when Cash got there, did you talk about your testimony  
25 in the case?

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C. H. Guang - direct

1 A. No, I did not. I spoke to him about the buses in his  
2 company.

3 Q. And did anybody else join you after Cash got there?

4 A. Yes, a little while later, Zhou Guang Yun came.

5 Q. That's the same Mr. Zhou that you ran into at the  
6 courthouse?

7 A. Yes.

8 Q. Did you tell him to meet you for lunch?

9 A. I did not. But when he got there, I said, Why don't you  
10 sit and have lunch. That was just matter of courtesy. He  
11 answer, and said he ate already.

12 Q. After he got there, did you talk to him about your  
13 testimony in the case?

14 A. No.

15 Q. Did he talk to you about his testimony in the case?

16 A. No.

17 Q. Now, you say that Cash is your boss; is that right?

18 A. Yes.

19 Q. How long have you worked for him?

20 A. Started in September of 2011.

21 Q. And what do you do for him?

22 A. I help him manage the drivers at the company, and also hire  
23 people to fix the vehicles when it breaks down.

24 Q. How long have you known Cash?

25 A. Also for more than ten years.

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C. H. Guang - direct

1 Q. Now, am I correct that you've met with people who worked  
2 for the U.S. government prior to testifying today?

3 A. Yes.

4 Q. And did you meet with the government more than once?

5 A. Yes.

6 Q. And how were those meetings arranged?

7 A. Sometimes, say for at today's meeting, we would make a day  
8 for the next meeting. Sometimes the agent will call Cash, and  
9 Cash would notify me, because I don't speak English.

10 Q. Am I right --

11 MR. COHEN: I'm sorry, I didn't hear that last answer.

12 THE COURT: The witness said that sometimes Cash would  
13 tell him, because the agents would call Cash.

14 MR. COHEN: Thank you.

15 THE COURT: Because he does not speak English. The  
16 witness, that is, Mr. Chen.

17 MR. COHEN: I understand. Thank you.

18 BY MR. SKINNER:

19 Q. Am I correct that the first time you met with the  
20 prosecutors in this case was in approximately December of 2011?

21 A. Yes, it was approximately that date.

22 Q. And was Mr. Jian, or Cash, the intermediary between you and  
23 the government in setting up that meeting?

24 A. Yes.

25 Q. Is Mr. Jian what's called an informant?

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C. H. Guang - direct

1 A. That's what the people in Chinatown say.

2 Q. Do you know that for certain?

3 A. I am certain.

4 Q. And did Mr. Jian ever tell you what you were supposed to  
5 testify about?

6 A. No.

7 Q. Now, Mr. Chen, do you recall at the end of your testimony  
8 on Thursday you were telling the jury about when you went to  
9 the defendant for help with the competition that you were  
10 facing on your route?

11 A. Yes.

12 Q. And am I correct that you testified that the defendant  
13 agreed to help you?

14 A. Yes.

15 Q. And that the competition then went away?

16 A. Yes.

17 Q. I think you may have covered this on Thursday, can you just  
18 remind us what, if anything, had you offered to the defendant  
19 in exchange for his assistance?

20 A. I agreed to give him one-third of the share of this  
21 company.

22 Q. And after your competition went away, what contact, if any,  
23 did you have with the defendant after that?

24 A. Every month when we split up the money, I would give him  
25 the money, and he would call me when he needed money.

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C. H. Guang - direct

1 Q. In what form would you give the money?

2 A. Cash.

3 Q. Where would you typically meet him and give him cash?

4 A. At a bus stop where the bus takes off.

5 Q. Where is that?

6 A. On Allen Street, what used to be the Hong Kong Supermarket.

7 Q. That's here in Manhattan?

8 A. Yes, in Chinatown, Manhattan Chinatown.

9 THE COURT: Not on South Street?

10 THE WITNESS: Not on South Street. This was the  
11 intersection of East Broadway and Allen Street.

12 Q. And how much money would you typically give the defendant,  
13 more or less?

14 A. Sometimes 3,000, sometimes \$4,000, depends on the business.  
15 If the business is good, then I give him more.

16 THE COURT: Isn't Allen Street called Pike Slip where  
17 it intersects with East Broadway? Becomes Allen Street after  
18 Division Street.

19 THE WITNESS: Yes.

20 THE COURT: So where you met him was at the  
21 intersection of Pike Slip and East Broadway; is that right?

22 THE WITNESS: Yes.

23 BY MR. SKINNER:

24 Q. And that's here in the Chinatown neighborhood of Manhattan;  
25 is that right?



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C. H. Guang - direct

1 THE INTERPRETER: Could you repeat?

2 MR. SKINNER: And is that here in the Chinatown  
3 neighborhood of Manhattan?

4 A. Yes.

5 Q. So you would give the defendant a third share of your  
6 company, am I understanding you correctly?

7 A. Yes.

8 Q. Did you enter into a contract with the defendant?

9 A. No.

10 Q. Did you give him shares on a piece of paper?

11 A. No.

12 Q. Did he pay you any money for his shares?

13 A. No.

14 Q. Aside from talking to your competition, did he do any work  
15 at all for the bus company?

16 A. Nothing else.

17 Q. And what did you think would happen if you didn't pay the  
18 defendant --

19 MR. COHEN: Objection.

20 THE COURT: Objection sustained.

21 MR. SKINNER: Your Honor, can we approach for one  
22 minute?

23 THE COURT: Not right now. Let's approach before this  
24 witness's testimony is over.

25 MR. SKINNER: Very well.

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C. H. Guang - direct

1 BY MR. SKINNER:

2 Q. Mr. Chen, let me ask you, do you know a man named Yi Feng?

3 A. I know.

4 Q. And who is he?

5 A. He was one of the dailos in the gang in Chinatown.

6 Q. Was that in the early 2000s, during the period of time that  
7 we've been talking about?

8 A. No, not in the 2000s.

9 Q. When was he a dailo in Chinatown?

10 A. Around 2002 to 2003.

11 Q. Did the defendant ever tell you about a dispute that he had  
12 with Yi Feng?

13 A. Yes.

14 Q. Where were you the first time you talked to the defendant  
15 about this dispute that he had with Yi Feng?

16 A. When the defendant was in the hospital and I went there to  
17 visit him.

18 Q. And when was this, more or less?

19 A. Around June or July of 2003.

20 Q. 2003?

21 A. 2002. Around June or July of 2002.

22 Q. And what did he tell you when you talked to him about this  
23 dispute with Yi Feng?

24 A. That he said Yi Feng owned similar type of gambling parlor  
25 as his. So a lot of gamblers went to gambler at Yi Feng's

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C. H. Guang - direct

1 gambling parlor. So he went to Yi Feng's gambling parlor and  
2 open -- and fired shots. After he fired shots, and when we was  
3 coming back from Yi Feng's, and then while he was coming back  
4 in front of his own gambling parlor located on 21 Eldridge  
5 Street, he was stabbed by Yi Feng's kids.

6 Q. And "kid," is that another word for follower?

7 A. Yes.

8 Q. Is this stabbing, is that how Ding Pa ended up in the  
9 hospital?

10 A. Yes.

11 Q. Now, why was it that you went to visit him in the hospital?

12 A. Because I had to go there to see him. It's a courtesy, and  
13 also face.

14 Q. Now, did there come a time when the defendant got out of  
15 the hospital?

16 A. As far as I remember, about three, four, or five days.

17 Q. And did he stay in New York after he got out of the  
18 hospital?

19 A. Yes, he stay for a few months.

20 Q. And after a few months, where, if anywhere, did he go?

21 A. He moved to Atlanta, Georgia.

22 Q. Now, after the defendant moved to Atlanta, did you continue  
23 to see him in New York City?

24 A. Yes, he came back to New York very often.

25 Q. And did you continue to pay him one-third of the shares of

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C. H. Guang - direct

1 your profits after he moved to Atlanta?

2 A. Yes.

3 Q. Mr. Chen, do you know a man who goes by the name Yiqun?

4 A. Yes.

5 Q. How well do you know Yiqun?

6 A. Pretty good friend.

7 Q. Did Yiqun have any relationship with Yi Feng, the dailo  
8 whose gambling parlor had been shot up by the defendant?

9 A. He and Yi Feng were friends.

10 Q. After the defendant got into this dispute with Yi Feng, did  
11 he ever talk to you about Yiqun?

12 A. He said Yiqun was almost beat up by him while he was in the  
13 barbershop around East Broadway.

14 Q. Did he say why he tried to beat up Yiqun?

15 A. He said he will find a reason to beat up anyone who was in  
16 good relationship with Yi Feng.

17 Q. Mr. Chen, did there ever come a time when Ding Pa asked you  
18 to get him a cell phone?

19 A. Yes.

20 Q. Was that before or after he moved to Atlanta?

21 A. As far as I remember, after he moved.

22 Q. And what did he say?

23 A. He said he wanted me to help him to get a phone similar to  
24 walkie-talkie.

25 Q. What do you mean by "similar to walkie-talkie"?

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C. H. Guang - direct

1 A. So you don't have to talk on the phone, all you have to do  
2 is just push a button and talk to the other party.

3 Q. Is that what's known sometimes as a push-to-connect  
4 feature?

5 A. Yes.

6 THE COURT: Or was that a different Chinese word?

7 THE WITNESS: In English, the name of the phone  
8 company is Nextel.

9 THE COURT: But is it the same word for walkie-talkie  
10 as -- what was the other word you used?

11 MR. SKINNER: Push-to-connect.

12 THE COURT: Push-to-connect.

13 THE WITNESS: It has two functions. Also can use as a  
14 phone and also --

15 THE COURT: No, no. I want to know how you say it in  
16 Chinese, "walkie-talkie."

17 THE WITNESS: Walkie-talkie.

18 THE COURT: I understand, Mr. Interpreter. I'm trying  
19 to understand what the push to --

20 MR. SKINNER: Push-to-connect.

21 THE COURT: -- to connect, how you say that in  
22 Chinese.

23 MR. SKINNER: Perhaps we could ask the interpreter to  
24 give us the exact Chinese word the witness is using.

25 THE COURT: Fine.

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C. H. Guang - direct

1 Are there two different words in Chinese, one for  
2 walkie-talkie and one for push-to-connect?

3 THE INTERPRETER: Yes, there are two different terms.

4 THE COURT: Different words.

5 THE INTERPRETER: Yes.

6 THE COURT: Okay. Thank you.

7 BY MR. SKINNER:

8 Q. How do you know the company that provided this kind of a  
9 phone was Nextel?

10 A. Because I also used the same phone.

11 Q. Did you use those phones with your bus drivers?

12 A. Usually around that time period, drivers and business  
13 people in Chinatown, 80 percent of them were using this.

14 THE COURT: And which was that, which word?

15 THE WITNESS: Using this walkie-talkie.

16 Q. And what did you do after the defendant asked you for this  
17 walkie-talkie phone?

18 A. I told my ex-wife to add another phone --

19 MR. COHEN: Objection.

20 THE COURT: Objection sustained. It's not responsive.

21 Q. Did you get Ding Pa one of these phones?

22 A. Yes.

23 Q. Did you put it under your own name?

24 A. No, under my ex-wife's name.

25 Q. What's your ex-wife's name?

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C. H. Guang - direct

1 A. Loh Kit Mun.

2 Q. And who paid the bill for this phone?

3 A. I deducted money every month from his one-third share.

4 Q. So, Mr. Chen, can you just remind us when it was, more or  
5 less, that you started paying the defendant one-third of the  
6 profits from the company?

7 A. Since May or June of 2002.

8 Q. Did there come a time after that when the defendant  
9 demanded a larger share of your business?

10 A. Around June or July of 2003.

11 Q. How did the defendant let you know he wanted a larger  
12 share?

13 A. He told me on the phone that he wanted an additional ten  
14 percent.

15 Q. Where were you when you got that phone call?

16 A. I was in New York Chinatown.

17 Q. What did the defendant say to you?

18 A. He said he had to provide housing, food, for his followers,  
19 entertainment, and he didn't have enough money. And he  
20 requested bus company to give him additional ten percent.

21 Q. And how did you feel when he asked you --

22 MR. COHEN: Objection.

23 THE COURT: Objection sustained.

24 MR. SKINNER: Again, I'd like to approach on this at  
25 some point.

D4FVLIN

C. H. Guang - direct

1 THE COURT: This is a different one, but yes.

2 MR. SKINNER: Same issue.

3 THE COURT: Not really. But, in any event, when you  
4 finish this line of questioning, I will see you at the sidebar.

5 MR. SKINNER: Thank you, your Honor.

6 BY MR. SKINNER:

7 Q. What did you say when the defendant asked you for an extra  
8 ten percent of the company?

9 A. He said he already had had a discussion with another  
10 shareholder.

11 MR. COHEN: Objection.

12 THE COURT: Objection sustained.

13 Q. Mr. Chen, what did you say to the defendant?

14 A. I expressed disagreement.

15 Q. What happened after you expressed disagreement?

16 A. He said that he did not want me to be part of the business  
17 and part of the shareholders.

18 Q. And what happened after he told you that he didn't want you  
19 to be part of the business anymore?

20 A. I went to Yiqun. I told Yiqun to speak to my --

21 MR. COHEN: Objection.

22 THE COURT: Objection sustained.

23 Q. So after the defendant said this, you went to Yiqun?

24 A. Yes.

25 Q. Did you go to Yiqun for help?



D4FVLIN

C. H. Guang - direct

1 A. Yes, I asked him for his help.

2 Q. Now, I know Yiqun is a friend of yours, but who was he in  
3 Chinatown?

4 A. He had a very good relationship with people in Chinatown,  
5 also with people at the gambling parlors.

6 Q. Was he a dailo?

7 A. As far as I know, at the time since when I started, first  
8 started knowing him, I did not notice that he had followers.

9 THE COURT: You didn't notice, is that what you said?  
10 All right.

11 Q. Well, to the best of your knowledge, was he a dailo with  
12 followers or something else?

13 A. Dailo is the leader of a gang.

14 Q. Was he a dailo?

15 A. No.

16 Q. Was he friends with dailos?

17 A. Yes.

18 Q. He was friends with Yi Feng; correct?

19 A. Yes.

20 Q. Was he friends with other dailos in Chinatown?

21 A. Yes, one or two, but I'm not so sure about this.

22 Q. Now, what happened after you went to Yiqun for help?

23 A. Yiqun made a phone call to my fellow -- my fellow  
24 shareholders, and told them not to --

25 MR. COHEN: Objection.

D4FVLIN

C. H. Guang - direct

1 THE COURT: Objection sustained.

2 Q. Were you kicked out of the bus company after you went to  
3 Yiqun for help?

4 A. No.

5 Q. Now, when is the next time after this that you saw Ding Pa?

6 A. Next day in the morning.

7 Q. And where did you see him?

8 A. He called me and told me to go to Corona Park in Queens to  
9 have a talk.

10 Q. Did you go?

11 A. Yes.

12 Q. Were you with anyone else?

13 A. I went there. And Ding Pa was there, and there were about  
14 two to three followers there. Two followers.

15 Q. What happened after you got there?

16 A. At that time he told me that I did not agree to give him  
17 the additional ten percent, that means I did not give him face;  
18 and that his followers -- and his followers had guns with  
19 themselves every day. And also he told me that I must reply  
20 today and to make him a decision.

21 Q. So Ding Pa told you that his followers had guns, or you  
22 knew in some other way that his followers had guns?

23 A. He said it first. And then later I also looked at his --  
24 took a look at his followers.

25 Q. And when you looked at the followers, what did you see?

D4FVLIN

C. H. Guang - direct

1 A. And his follower pulled his shirt.

2 Q. Just describe --

3 THE COURT: Are you talking about a follower?

4 THE WITNESS: Yes.

5 THE COURT: What follower?

6 BY THE WITNESS:

7 Q. Did you know the name of this follower?

8 A. I do not know.

9 Q. And you testified that at this meeting in Corona Park, the  
10 defendant was with two of his followers; is that right?

11 A. Yes.

12 Q. And one of these followers pulled his shirt?

13 A. Yes.

14 Q. Describe for us what you mean by pulling his shirt.

15 A. My understanding was that the follower was trying to show  
16 me that he had a gun.

17 MR. COHEN: Move to strike, Judge.

18 THE COURT: Excuse me?

19 MR. COHEN: Move to strike. His understanding --

20 THE COURT: Yes, yes, yes.

21 Q. Just describe for us what you saw what he did.

22 THE COURT: Right. I grant the motion to strike.

23 What is the question?

24 Why don't you show us what he did.

25 What did you see?

D4FVLIN

C. H. Guang - direct

1 THE WITNESS: Went like this. And pressed over here  
2 with his hand, like that.

3 Q. So he pressed on his shirt in the area of his hip; is that  
4 right?

5 A. Yes.

6 Q. And what happened after Ding Pa said you had to give him an  
7 answer that day?

8 A. So I call my partner, Ding Jia Quan, and to have a  
9 discussion with him.

10 Q. I jumped ahead a little, a little fast. Forgot to ask you,  
11 did you actually see a gun on Ding Pa's follower?

12 A. No, I did not.

13 Q. What did you tell Ding Pa after you talked to your partner?

14 A. Both of us had a discussion, that we agreed to pay him  
15 additional \$2,000 a month.

16 Q. So what did you say to Ding Pa?

17 A. After a discussion, and I want to give you \$2,000,  
18 additional \$2,000 per month, is that okay with you?

19 Q. And what did Ding Pa say?

20 A. He accepted it.

21 Q. Around the time that all of this was happening, did you  
22 sell shares in your company to anyone else?

23 A. We -- Ding Jia Quan and I, we sold additional ten percent  
24 each of our shares to Yiqun.

25 Q. And that's the same man that you had gone to for help as

D4FVLIN

C. H. Guang - direct

1 you explained a moment ago?

2 A. Yes.

3 Q. And what, if anything, did you tell Yiqun about the extra  
4 \$2,000 you agreed to pay Ding Pa?

5 MR. COHEN: Objection.

6 THE COURT: Objection sustained.

7 MR. SKINNER: Your Honor I was going to move on to a  
8 new topic at this point. Can we get a sidebar?

9 THE COURT: Yes. I will see you at the sidebar.

10 (Continued on next page)

D4F6LIN2

Chen - direct

1 (At the side bar)

2 THE COURT: Generally speaking the operation of  
3 witnesses is not admissible evidence. What makes this  
4 different?

5 MR. SKINNER: Because the witness was extorted by the  
6 defendant and the witness's subject of fear is one of the  
7 elements of the offense and one of the things we'll have to  
8 prove.

9 THE COURT: You'll have to prove that what the  
10 defendant told him would cause a person to be afraid, not that  
11 this particular person was afraid.

12 MR. SKINNER: Your Honor, I thought that we were  
13 actually going to have to prove that particular defendant was  
14 afraid and the best way to get that is from the witness  
15 himself.

16 THE COURT: I understand that is what you thought. My  
17 understanding of extortion is threaten something that would  
18 frighten a person.

19 MR. SKINNER: Your Honor, if the Court is going to be  
20 instructing the jury that what we need to prove is that what  
21 was said is the kind of thing that would have caused fear, then  
22 I agree.

23 THE COURT: Isn't the question whether the defendant  
24 intended to frighten the person is he talking to, not whether  
25 that person was in fact frightened because people have

D4F6LIN2

Chen - direct

1 different fear thresholds?

2 MR. SKINNER: I think the defendant's intent is  
3 certainly at issue. I also think the victim's subject of state  
4 of mind is relevant and properly admissible where the issue is  
5 whether or not he was actually afraid.

6 THE COURT: I would like some authority on that.

7 MR. SKINNER: It is part of the jury instructions that  
8 we proposed.

9 THE COURT: Well, it may be. You may have proposed  
10 it, but I need to know the source, the legal source of that  
11 proposal.

12 MR. SKINNER: We would have to go back to the  
13 instruction. I believe the legal source cites Sand and  
14 additional cases.

15 THE COURT: It is an authoritative case that I would  
16 like, that it doesn't matter whether an ordinary person would  
17 be caused to be afraid. It only matters whether the person it  
18 was said to become afraid.

19 MR. SKINNER: I am just arguing that where we have the  
20 victim of the extortion, the victim's subject state of mind is  
21 relevant and admissible where the question is whether or not  
22 the defendant caused fear.

23 THE COURT: I would like to see a case on the  
24 essential elements of extortion.

25 MR. SKINNER: Very well, your Honor. So we'll see if

D4F6LIN2

Chen - direct

1 I can find that.

2 THE COURT: Unless you are prepared to agree.

3 MR. COHEN: No, I don't agree at all. In fact, the  
4 witness's testimony was that they offered my client the shares  
5 of the company in return for his assistance in dealing with a  
6 purported competitor. He has proffered to the government,  
7 although it hasn't been brought out by Mr. Skinner, the reason  
8 they went to him is because he had a good relationship with the  
9 purported competitor and they thought they could work things  
10 out. Given all that it doesn't appear that we have an  
11 extortionate situation here.

12 MR. SKINNER: Well, I think putting aside that --

13 THE COURT: Well, I am not hearing what a jury can  
14 draw from the testimony. I am interested only in the essential  
15 elements of extortion. You can have a hypersensitive person  
16 who is fearful and that may or may not be extortion. It's not  
17 only extortion that requires putting someone in fear. It is  
18 true hyperbole as well and it is not normally an element as to  
19 whether that particular thing put the who was spoken to in fear  
20 but whether it was calculated to do so.

21 MR. SKINNER: I think it is actually both whether it  
22 was calculated to and whether it in fact did and we will look  
23 for a case.

24 THE COURT: It is your position that unless you can  
25 show that the person to whom the demand was made was actually



D4F6LIN2

Chen - direct

1 put in fear that it is not extortion.

2 MR. SKINNER: I think the person needs to be in fear  
3 and that needs to be why he turned over the money.

4 MS. BURNS: I think it is objective and subjective.

5 THE COURT: It's very important.

6 MS. BURNS: It is.

7 THE COURT: We're dealing with another language,  
8 different words.

9 MR. SKINNER: Fair enough.

10 THE COURT: It is very difficult to sort out what is  
11 really being said.

12 MR. SKINNER: Put aside the previous witness, I think  
13 this witness has been very clear and there hasn't been any  
14 issues at all.

15 THE COURT: He is answering much more directly if that  
16 is what you are saying. Yes and no comes more trippingly to  
17 his tongue than the other witness.

18 MR. SKINNER: Your Honor, we'll look for a case.

19 THE COURT: Good.

20 MR. SKINNER: If it is something properly before the  
21 jury, we can address it before he is finished or we can recall  
22 him and answer those question.

23 THE COURT: Fine.

24 MR. SKINNER: The only other thing I wanted to raise  
25 was with regard to what he said to Yi Qun. I am guessing the

D4F6LIN2

Chen - direct

1 basis of the objection is hearsay.

2 THE COURT: Sure it is.

3 MR. SKINNER: We're not offering it for the truth of  
4 what was said.

5 THE COURT: What are you offering it for?

6 MR. SKINNER: To show everyone's state of mind. To  
7 show Yi Qun's state of mind?

8 THE COURT: How does it show Yi Qun's state of mind,  
9 what he said to Yi Qun?

10 MR. SKINNER: Certainly if he didn't tell Yi Qun about  
11 the \$2,000 then that explains why Yi Qun didn't say anything  
12 until a year later when he found about it.

13 THE COURT: Then what you would want to know is  
14 whether he told Yi Qun about the \$2,000.

15 MR. SKINNER: That is what I was trying to ask.

16 THE COURT: No. You asked what he said.

17 MR. COHEN: Judge, I would just ask that you speak to  
18 the juror.

19 THE COURT: I am going to do that. I am going to  
20 excuse the jury and if you stay around, I am going to ask that  
21 juror to stay for a moment.

22 MR. COHEN: Thank you.

23 (Continued on next page)

D4F6LIN2

Chen - direct

1 (In open court; jury present)

2 THE COURT: Members of the jury, this is a convenient  
3 time to take a midmorning recess. I will excuse all of you for  
4 a midmorning recess.

5 I am going to ask Mr. Textly to stay.

6 (Continued on next page)

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D4F6LIN2

Chen - direct

1 (At the side bar)

2 THE COURT: I think I probably did not instruct  
3 specifically enough about staying away from newspapers, but I  
4 take it that you did read this on Saturday.

5 JUROR: I did, yes.

6 THE COURT: I know it is difficult to figure out what  
7 the impact was on your mind, but what kind of credence do you  
8 give to a newspaper article about something?

9 JUROR: It was just curiosity to read about the case  
10 that I was involved with.

11 THE COURT: I understand the temptation to read, but  
12 after you read it --

13 JUROR: Do I think it will affect my opinion in the  
14 case?

15 THE COURT: Well, that is hard to tell. Really you  
16 are the one who most knows what the impact was on you.

17 JUROR: It had minor impact on me. I don't think it  
18 would have an impact on my decision in terms of the case.

19 THE COURT: That is, can you put what that reporter  
20 said out of your mind?

21 JUROR: I believe so.

22 THE COURT: Very well. Do you have any questions?

23 MR. COHEN: No.

24 MR. SKINNER: No, your Honor. Thank you.

25 THE COURT: I am going to instruct you to please

D4F6LIN2

Chen - direct

1 resist.

2 JUROR: I will. It is my weekend routine.

3 THE COURT: I understand and it is not easy to resist;  
4 but when you look at any newspaper if you see anything that  
5 refers to a trial, skip it even if it means throwing your net  
6 too widely --

7 JUROR: Okay.

8 THE COURT: -- during the course of this trial.

9 JUROR: Yes, your Honor.

10 THE COURT: It is very important that it is only the  
11 evidence in the courtroom that should be considered by you.

12 JUROR: I understand.

13 MR. COHEN: Your Honor, I am sure it goes without  
14 saying, but can you instruct the juror not to discuss this with  
15 any of the other jurors?

16 THE COURT: Yes. Please do not discuss with any other  
17 juror our conversation.

18 JUROR: Okay.

19 MR. COHEN: Or anything about the article.

20 JUROR: Okay.

21 THE COURT: It is not easy I know and I know you don't  
22 want to be discourteous to anybody, but you can tell them that  
23 the Court instructed you not to discuss the article.

24 JUROR: Yes. Okay.

25 THE COURT: Which is indeed what I am doing.

D4F6LIN2

Chen - direct

1 JUROR: Okay, your Honor.

2 THE COURT: Very well. Thank you.

3 MR. SKINNER: Thank you, Judge.

4 THE COURT: We'll all take a five-minute recess.

5 MR. SKINNER: Can we have 10, Judge?

6 THE COURT: Yes. 10 minutes.

7 (Recess)

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D4F6LIN2

Chen - direct

1 (In open court; jury present)

2 THE COURT: You pay proceed.

3 MR. SKINNER: Thank you, your Honor.

4 BY MR. SKINNER:

5 Q. Mr. Chen, prior to this meeting in Corona Park, you had  
6 been paying the defendant one-third of your profits, correct?

7 A. Yes.

8 Q. You were making those payments in cash?

9 A. Yes.

10 Q. How often were you paying him one-third of your profits?

11 A. I did it every month.

12 Q. Now, after the meeting in Corona Park, you agreed to give  
13 him an additional \$2,000, is that right?

14 A. Yes.

15 Q. Was that in addition to the one-third payment, one-third of  
16 the profits?

17 A. Yes.

18 Q. So from that point on you would pay a third of the profits  
19 plus \$2,000?

20 A. Yes.

21 Q. Was that also in cash?

22 A. Yes, they were.

23 Q. How often did you make those payments after the meeting in  
24 Corona Park?

25 A. The next month.

D4F6LIN2

Chen - direct

1 Q. Every month?

2 A. Every month.

3 Q. Did you tell Yi Qun about the extra \$2,000 payments?

4 A. I did not tell him.

5 Q. Why not?

6 MR. COHEN: Objection.

7 THE COURT: Objection sustained.

8 Q. Mr. Chen, did there ever come a time when Yi Qun learned  
9 about the payments to the defendant?

10 A. He learned of it later on.

11 Q. When did he learn about the extra \$2,000 payments?

12 A. In June of '04.

13 Q. How did he learn about the extra \$2,000 payments in June of  
14 '04?

15 A. Before that I told him that every month I set aside \$2,000  
16 for the company's cash flow. At that time he asked me how much  
17 money was set aside for the company's company flow. Then I  
18 told him that the \$2,000 every month was paid to Ding Pa.

19 Q. What happened after you told Yi Qun about the \$2,000  
20 payments to Ding Pa?

21 A. Yi Qun said not to pay anymore, that he did not agree to do  
22 that. So I called him and told him that after I paid him for  
23 June, I would not be making anymore payments to him afterwards  
24 because the shareholder would not agree to do that.

25 Q. You called who?



D4F6LIN2

Chen - direct

1 A. I called Ding Pa.

2 Q. What was Ding Pa's reaction when you told him that you were  
3 going to stop the extra \$2,000 payments?

4 A. He started yelling at me over the phone. He said I know  
5 who it is that did not agree to it.

6 Q. What else did he say if anything?

7 A. He said since there is no face here, there will be an  
8 opportunity for me to find this person. But he did not state  
9 who this person was.

10 Q. So he didn't say who the shareholder was?

11 A. No. He just said that he knew who this person was.

12 Q. Did you pay Ding Pa the extra \$2,000 in June of 2004?

13 A. Yes.

14 Q. Did you pay Ding Pa the extra \$2,000 in July of 2004?

15 A. No.

16 Q. Did there come a time in July of 2004 when you learned that  
17 Yi Qun was dead?

18 A. Yes.

19 Q. Where were you when you learned this piece of news?

20 A. I was driving a truck from New York to North Carolina. It  
21 was 6:00 in the morning.

22 Q. How soon after Yi Qun's death was it?

23 A. I believe one to two hours later.

24 Q. What did you do with that Nextel phone you got for Ding Pa  
25 after you learned about Yi Qun's death?

D4F6LIN2

Chen - direct

1 THE INTERPRETER: Can you repeat that?

2 Q. What did you do with the Nextel phone you had gotten for  
3 Ding Pa after you learned about Yi Qun's death?

4 A. I told my wife to stop service on that phone after one to  
5 two days.

6 Q. Did you speak with Ding Pa after you learned that Yi Qun  
7 was dead?

8 A. A few days later he made a phone call to me.

9 Q. A few days after what?

10 A. It was around one week after Yi Qun's death.

11 Q. And what is the first thing he said to you during this  
12 phone call?

13 A. He just said it is me. You don't need to say the name.

14 Q. Did you recognize the voice?

15 A. I did.

16 Q. Whose voice did you recognize it as?

17 A. It was Ding Pa's voice.

18 Q. Did it come through under a particular phone number?

19 A. It didn't come through.

20 Q. After Ding Pa said no names, what did he say after that?

21 A. I asked him why he killed Yi Qun.

22 Q. What did he say?

23 A. He said the northerner misheard him, misunderstood his  
24 meaning.

25 Q. Did he say what he told the northerner?

D4F6LIN2

Chen - direct

1 A. He said to the northerner, Get rid of him.

2 Q. Did he say what language he spoke to the northerner?

3 A. He said to the northerner in a dialect or language, which  
4 he understood which was Mandarin.

5 Q. Meaning he said he spoke Mandarin?

6 A. Yes.

7 Q. Did he say what he meant when he said, "Get rid of him"?

8 MR. COHEN: Objection.

9 MR. SKINNER: Did he say what he meant, your Honor.

10 MR. COHEN: Withdrawn.

11 A. When I asked him, he said that it was to shoot Yi Qun on  
12 his arms or legs.

13 Q. What did he say happened if he said?

14 A. He said the northerner misheard or misunderstood him and  
15 shot him on his body, shot Yi Qun on his body.

16 Q. During this phone call with Ding Pa, did you talk about any  
17 payments?

18 A. Yes. He said to pay his wife every month.

19 Q. Did he say where he was?

20 A. He did not.

21 Q. Did he say anything during the phone call about whether he  
22 still had followers in New York?

23 A. Yes. He said if there is anything just give them a call.

24 There is still a lot of kids, a lot of people that follow him  
25 nearby.

D4F6LIN2

Chen - direct

1 Q. Did he tell you anything else during this phone call?

2 A. Because we didn't talk on the phone for a long period of  
3 time, I only asked him why he shot Yi Qun and then he talked  
4 about paying the money to his wife every month.

5 Q. After you got this phone call from Ding Pa, did you go to  
6 the police?

7 A. No.

8 Q. Why not?

9 A. Because I was afraid that he had not been arrested and he  
10 still had a lot of followers nearby so I was afraid to go to  
11 the police.

12 Q. Eventually you did tell people from the government about  
13 this phone call with Ding Pa, correct?

14 A. Yes.

15 Q. You told the prosecutors in this case about it in about  
16 December of 2011, correct?

17 A. Yes.

18 Q. So what, if anything, changed between 2004 and 2011 that  
19 caused you to tell the government about that phone call?

20 A. Because around 2011 I read the newspaper and I learned that  
21 he got arrested.

22 Q. Now, you say that during this phone call with Ding Pa in  
23 2004 he told you to keep making the payments to his wife, is  
24 that right?

25 A. Yes.

D4F6LIN2

Chen - direct

1 Q. Did you make the payments to his wife?

2 A. Yes.

3 Q. How often did you make payments to his wife?

4 A. I paid every month.

5 Q. How much did you pay?

6 A. Sometimes 6,000. Sometimes 7,000. It depends on the  
7 business.

8 Q. Was it a third of the profits still?

9 A. Yes.

10 Q. For how long did you make these monthly payments of a third  
11 of the profits?

12 A. Until November of '09.

13 Q. How would you pay the money to Ding Pa's wife?

14 A. Sometimes I would put it into the bank account. Sometimes  
15 I would give it to the bus driver that drives from New York to  
16 Atlanta.

17 Q. Did you ever pay her yourself?

18 A. Yes. Sometimes I would go to Atlanta and I would bring the  
19 money with me.

20 Q. When you say you put it into the bank account, you mean you  
21 deposited the money into a bank account?

22 A. Yes.

23 Q. How did you know what account to deposit the money into?

24 A. His wife gave me the name of the account, number of the  
25 account and her name.

D4F6LIN2

Chen - direct

1 Q. What was the bank that the account was at?

2 A. Bank of America.

3 Q. What was Ding Pa's wife's name?

4 A. Xiu Juan Lin.

5 MR. SKINNER: Your Honor, at this time I would like to  
6 read a stipulation into the record.

7 THE COURT: Very well.

8 MR. SKINNER: The parties stipulate and agree that if  
9 called as a witness a records custodian of a Bank of America  
10 would testify as follows: Government Exhibit 20, the printout  
11 bank account records for Xiu Juan Lin 3146 Chandley Dunley  
12 Road, Suite 206, Atlanta, Georgia, and Government Exhibit 20  
13 was retrieved from the computer archive system of Bank of  
14 America. The records reflected on Government Exhibit 20 were  
15 created by a person with knowledge of or created from  
16 information transmitted by a person with knowledge of the  
17 information shown or created at or near the time the  
18 information became available to Bank of America and was created  
19 and maintained by Bank of America as part of his regularly  
20 conducted business activities.

21 Your Honor, the government would now offer Government  
22 Exhibit 104 and Government Exhibit 20.

23 MR. COHEN: No objection.

24 THE COURT: Very well. Government Exhibits 104 and 20  
25 are received in evidence.

D4F6LIN2

Chen - direct

1 (Government's Exhibits 104 and 20 received in  
2 evidence)

3 MR. SKINNER: Thank you, your Honor. I would like to  
4 show the jury one or two pages from Government Exhibit 20.

5 THE COURT: You may.

6 MR. SKINNER: Ms. Chace, can you please call up first  
7 page 437. Can we zoom in there on the bottom part of this  
8 document?

9 BY MR. SKINNER:

10 Q. Mr. Chen, can you describe for us when you would deposit  
11 money into the bank account how you would go about doing it?

12 A. Are you talking about this one?

13 Q. Well, just the question first then we'll talk about what is  
14 on the document.

15 A. I bring the money to the bank, I fill out a deposit slip, I  
16 give it to the teller, and tell the teller to deposit it into  
17 that bank account.

18 Q. Would you have to give your name and identifying  
19 information?

20 A. Yes. The bank's requirement is that if it exceeds four,  
21 \$5,000 then they would ask me for my name and ID and then they  
22 would write down the ID.

23 MR. SKINNER: Ms. Chace, can you zoom back out so we  
24 can see the full document first?

25 Q. I am not sure if you can see this, Mr. Chen, but do you

D4F6LIN2

Chen - direct

1 recognize what this is?

2 A. That's my name and my license number.

3 Q. What is the document itself?

4 A. That's the deposit slip.

5 Q. And just describe for us where your name and driver's  
6 license number appear on the deposit slip?

7 A. Under the bank account number 7900.

8 MR. SKINNER: Your Honor, with the Court's permission  
9 I am going to hand the witness a pointer.

10 THE COURT: Yes, please.

11 Can you enlarge these numbers?

12 MR. SKINNER: Yes.

13 Q. Can you now using this pointer indicate where your name and  
14 driver's license number are?

15 A. That's the name. That's the driver's license number.

16 MR. SKINNER: Ms. Chace, can you zoom in on the  
17 license number so it is easier for us to see.

18 A. That's the license expiration date. That's the deposit  
19 date.

20 Q. Where was your driver's license from at this point in time?

21 A. North Carolina.

22 MR. SKINNER: Ms. Chace, can you zoom back out again?

23 Q. How much was the deposit for in this particular instance?

24 A. 7900.

25 Q. \$7,900?



D4F6LIN2

Chen - direct

1 A. Yes.

2 Q. That was in cash?

3 A. They were always cash.

4 Q. Was that one in cash?

5 A. Sorry?

6 Q. Was this particular one in cash?

7 A. Yes.

8 MR. SKINNER: Ms. Chace, can you go to the next page?

9 Can you zoom in on the left half of that deposit ticket?

10 Q. Mr. Chen, do you see where it says -- I'll have it  
11 translated for you -- Albemarle Road?

12 A. Yes.

13 Q. Do you recognize that name?

14 A. I do.

15 Q. Why is Albemarle Road?

16 A. In Charlotte, North Carolina.

17 MR. SKINNER: Ms. Chace, can we turn to page 422 of  
18 the same Government Exhibit 20?

19 Try 443. Can you zoom in on the whole ticket?

20 Q. Mr. Chen, do you recognize this?

21 A. Yes, I recognize.

22 Q. What is it?

23 A. This is a deposit slip.

24 Q. Does your name appear anywhere on the deposit slip?

25 A. Yes.

D4F6LIN2

Chen - direct

1 Q. Can you just use the pointer and show us where your name  
2 appears?

3 MR. SKINNER: Ms. Chace, can you zoom in on that  
4 portion of the document again?

5 Q. Is that your name you are indicating right there?

6 A. Yes.

7 Q. What is underneath it?

8 A. License number.

9 Q. What is underneath that?

10 A. Expiration date of the license.

11 MR. COHEN: Ms. Chace, can you zoom back out again,  
12 please? Pull in on the whole deposit slip again.

13 Q. What is the name on the account that you were making the  
14 deposit into?

15 A. Lin Xiu Juan.

16 Q. Can you show us where that appears on the deposit slip?

17 Who again is Xiu Juan Lin.

18 A. Ding Pa's wife.

19 Q. How much is this deposit for?

20 A. 6,000.

21 Q. What is the date of the deposit?

22 A. May 27, 2009.

23 MR. SKINNER: Ms. Chace, can you turn to 444? Can you  
24 zoom in on the entirety of the deposit slip?

25 Q. Mr. Chen, is this another deposit slip for an account in

D4F6LIN2

Chen - direct

1 the name of Xiu Juan lin?

2 A. Yes.

3 Q. Do you see your name and identifying information anywhere  
4 on the deposit slip?

5 A. Yes.

6 Q. Can you show us where that is?

7 A. That's my name. That's my license number.

8 Q. How much was this deposit for?

9 A. 5,000.

10 Q. When was this one made?

11 A. July 22, 2009.

12 MR. SKINNER: Ms. Chace, can you turn to 474, please.

13 Can we zoom in on this one again?

14 Q. Is this another deposit slip to an account in the name of  
15 Lin Xiu Juan?

16 A. Yes.

17 Q. Do you see your identifying information anywhere on this  
18 deposit slip?

19 A. Right there.

20 Q. How much was this deposit for?

21 A. 7,000.

22 Q. What was the date on this deposit?

23 A. October 9th, 2009.

24 Q. Mr. Chen, to the best of your recollection do you recall  
25 making the deposits that correspond to the deposit slips that

D4F6LIN2

Chen - direct

1 we have just looked at?

2 A. What about the deposit?

3 Q. Did you make these deposits?

4 A. Yes.

5 Q. Did you ever have anybody else make deposits into the  
6 defendant's wife's bank account?

7 A. Yes. I told my wife Lon Kit Mun to deposit on my behalf.

8 MR. SKINNER: Ms. Chace, can we turn to page 389?

9 Q. Mr. Chen, do you see your wife's name and identifying  
10 information anywhere on this deposit slip?

11 A. Yes.

12 Q. Can you point that out to us with a pointer?

13 A. That's her name. That's her license number.

14 MR. SKINNER: Your Honor, I apologize for the  
15 interruption, but can we a brief side bar?

16 THE COURT: Very well.

17 (Continued on next page)

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D4F6LIN2

Chen - direct

1 (At the side bar)

2 MR. SKINNER: Your Honor, while we were on the break,  
3 we did some quick research on the issue we were discussing  
4 before and we found one case that we think supports our  
5 proposition.

6 THE COURT: Why don't you hand it up and I will read  
7 it.

8 MR. SKINNER: I don't have the case itself. I wanted  
9 to ask that since we're nearing the end of our examination of  
10 Mr. Chen with the Court's permission I will not ask anymore  
11 questions about his subjective state of mind. I have a feeling  
12 Mr. Cohen's cross will bring us to lunch and then we can over  
13 lunch get you copies of the cases and bring them with us and if  
14 the Court is persuaded then --

15 THE COURT: I will give you an opportunity.

16 MR. SKINNER: Thank you.

17 THE COURT: Very well.

18 (Continued on next page)

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D4F6LIN2

Chen - direct

(In open court; jury present)

BY MR. SKINNER:

Q. Mr. Chen, after you talked to the defendant on the telephone a week after Yi Qun's death, did you ever see him again prior to coming to court in this case?

A. No.

Q. To the best of your knowledge during the period of time that you continued to make these payments to the defendant's wife was he ever in Chinatown, Manhattan?

A. Who is in Chinatown?

Q. Ding Pa?

THE COURT: The question is did you ever see him in Chinatown.

Q. Did you ever see him in Chinatown?

A. No.

Q. Was he doing work during this period of time for the bus company?

A. No.

Q. Was his wife doing any work for the bus company?

A. No.

Q. Had Ding Pa done anything at all for the bus company after he got rid of your competition?

MR. COHEN: Objection.

THE COURT: Objection sustained.

Q. Did Ding Pa do any work?

D4F6LIN2

Chen - direct

1 THE COURT: Are you talking about his bus company?

2 MR. SKINNER: Yes, your Honor.

3 Q. Did Ding Pa do any work at all for your bus company after  
4 2002?

5 A. No.

6 MR. SKINNER: No further questions, your Honor.

7 THE COURT: Very well, you may cross-examine.

8 CROSS-EXAMINATION

9 BY MR. COHEN:

10 Q. Is it Mr. Chen or is it Mr. Wong?

11 A. Chen.

12 Q. Okay. Mr. Chen, good afternoon.

13 You and I have never met, have we?

14 A. No.

15 Q. We've never talked about this case on the telephone or in  
16 any other way, correct?

17 A. Yes.

18 (Continued on next page)

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D4FVLIN3

C. H. Guang - cross

1 Q. Now, I think you indicated that you had met numerous times  
2 with the prosecutors and people from the government, right?

3 A. Yes.

4 Q. And the first time that you met with those prosecutors,  
5 that meeting was arranged by somebody named Dan Jian?

6 A. Yes.

7 Q. And Dan Jian was somebody you referred to as your boss;  
8 correct?

9 A. After October 2011, I started working for him.

10 Q. Okay. And when you testified a little while ago, you  
11 referred to him as your boss; correct?

12 A. Yes, yes, until now.

13 Q. And I think you said for more than ten years.

14 A. Yes.

15 Q. And have you lived in or around the Chinatown area for many  
16 years?

17 A. When I first came to the United States, I lived in  
18 Chinatown from 1995 until 2002.

19 Q. And since then have you not lived in Chinatown?

20 A. From 2002 until 2008, I moved to Charlotte, North Carolina.

21 Q. Okay. Are you back in New York now? You don't have to  
22 tell us where, but are you back in New York now?

23 A. Yes.

24 Q. And is it a fair statement that you're in frequent contact  
25 with people in the Chinatown community?



D4FVLIN3

C. H. Guang - cross

1 A. Sometimes told them to come out to have dinner or parties.

2 Q. Is it a fair statement, sir, that you are frequently in  
3 contact with people in the Chinatown community, yes or no?

4 A. Not having frequent contact.

5 Q. You do not have frequent contact with people in the  
6 Chinatown community; correct?

7 A. Not that often.

8 Q. Okay. You've testified that since 2011, you worked for Dan  
9 Jian.

10 THE INTERPRETER: I'm sorry?

11 Q. You testified that since 2011, you worked for Dan Jian;  
12 correct?

13 A. After October.

14 Q. Of 2011?

15 A. Yes.

16 Q. And was that in New York City?

17 A. Yes.

18 Q. In Chinatown?

19 A. Yes.

20 Q. And how often would you work for Dan Jian?

21 A. I work for him every day.

22 Q. So since at least 2011, you've worked for Dan Jian every  
23 day in Chinatown, but you're telling the jury that you're not  
24 frequently in touch with people from the Chinatown community;  
25 is that right?

D4FVLIN3

C. H. Guang - cross

1 A. I don't have any contact with him.

2 THE COURT: I must have missed --

3 A. If they have parties or dinners, then they would invite me.  
4 I know those people from the association, but I just do not  
5 have that much contact with them.

6 THE COURT: Where do you live now?

7 THE WITNESS: I live in Brooklyn.

8 THE COURT: And is that since 2011?

9 THE WITNESS: I started living in Brooklyn since 2010.

10 THE COURT: Thank you.

11 Q. Mr. Chen, are you having any difficulty understanding the  
12 interpreter?

13 A. No, no difficulties.

14 Q. Are you having any difficulty understanding the question  
15 that I'm asking you?

16 A. Just that when you are asking about the community contact,  
17 what aspect are you referring to? To my understanding,  
18 "community contact" means people from association and also from  
19 people abroad.

20 Q. I'm just talking about people who live in Chinatown, people  
21 who work in Chinatown.

22 A. But as far as I understand, the community contact is not  
23 the people from Chinatown who live in Chinatown.

24 Q. What do you understand "community" to mean?

25 A. Community is area within Chinatown.

D4FVLIN3

C. H. Guang - cross

1 THE COURT: Is a particular area you think?

2 I think he's trying to explain he didn't understand  
3 your question.

4 A. To my understanding, the community contact is people in  
5 Chinatown who are more -- who are well-known, and people who I  
6 know.

7 MR. SKINNER: Perhaps defense counsel can just ask if  
8 he talks regularly to people who live in Chinatown so we don't  
9 have that issue with the terminology.

10 MR. COHEN: That's fine. I'll adopt that question.

11 THE COURT: I'm not sure the interpreter heard you.

12 THE INTERPRETER: Could you repeat?

13 Q. Do you speak regularly to people who live and work in  
14 Chinatown?

15 A. Chinatown? Yes, that's my work. They drive every day, so  
16 I have to talk to them. I'm responsible for ticket sales, so  
17 many, many tens of numbers of people came to me and speak to  
18 me.

19 THE COURT: What you're being asked is are there  
20 people in Chinatown who are friends of yours or whom you speak  
21 to regularly?

22 THE WITNESS: Yes.

23 Q. Okay. And is it a fair statement that Dan Jian, your boss,  
24 is somebody who's well-known in that community?

25 A. You can say that.

D4FVLIN3

C. H. Guang - cross

1 Q. It's not for me to say that. I'm asking if you would say  
2 that.

3 A. Yes.

4 Q. And what is his reputation in your community?

5 A. To me, just that a lot of people know him. He and I are  
6 friends, and no one would talk in front of me about him.

7 Q. Because he's a powerful person in Chinatown; correct?

8 A. I think -- to me, I think cannot say this way, in this way.  
9 I do not understand what you mean, in what aspect that you mean  
10 "power."

11 Q. He's somebody who has face in Chinatown; correct?

12 A. Can say that.

13 Q. Can you say that?

14 A. Yes.

15 Q. Would most people in Chinatown say that, in your opinion?

16 A. I think he's a person who has face, but I cannot represent  
17 that's what other people are thinking.

18 Q. He's somebody who commands respect in Chinatown; correct?

19 A. I can say it like this.

20 Q. And he's somebody that you know to be an informant for the  
21 immigration service; correct?

22 A. Do not know.

23 Q. Excuse me?

24 A. Do not know. I do not know.

25 Q. You don't know?

D4FVLIN3

C. H. Guang - cross

1           Didn't you tell the jury on direct examination that  
2           you knew that Dan Jian was an informant for the immigration  
3           service?

4           A. He is an informant, but I just do not know that he is an  
5           informant for immigration.

6           Q. Oh, so you know that he's an informant, you just don't know  
7           what government agency he informs to.

8           A. Yes.

9           Q. And he's told you that he's an informant; correct?

10          A. No, he did not tell me. But almost everyone in Chinatown  
11          knows that he is an informant. This is not a difficult  
12          question to understand.

13          Q. And everyone in Chinatown knows he's an informant because  
14          he's told everybody that he's an informant; correct?

15          A. I do not know. I do not know whether he has told other  
16          people.

17          Q. So it was through this informant, Dan Jian, you first came  
18          to have a meeting with the government; correct?

19          A. Yes.

20          Q. And when you went to meet with the government, you knew  
21          that they were interested in speaking to you about Ding Pa;  
22          correct?

23          A. Yes.

24          Q. And you knew that because Dan Jian told you that they  
25          wanted to talk to you about Ding Pa; correct?

D4FVLIN3

C. H. Guang - cross

1 A. First time -- I may describe to you why the first time when  
2 I decided to talk about this case.

3 Q. I'm asking you, sir, did you know that they wanted to talk  
4 to you about Mr. Lin because Dan Jian told you they wanted to  
5 talk to you about Mr. Lin? That's a yes or no, sir.

6 A. But I think the question I'm going to answer is different  
7 from when this -- when this thing happened.

8 MR. COHEN: Your Honor, I ask the witness be directed  
9 to answer the question that I ask him, not the question that he  
10 would prefer to answer.

11 THE COURT: Right. Please.

12 MR. SKINNER: Objection.

13 THE COURT: Listen carefully to the interpreter.

14 MR. SKINNER: I'd ask the defense counsel to give an  
15 opportunity to answer before he interjects.

16 THE COURT: We don't need speeches from either  
17 counsel.

18 BY MR. COHEN:

19 Q. I'll ask the question again, sir, and then I'm going to ask  
20 you two questions: First I'm going to ask you if you  
21 understand the question, and then I'm going to ask you to  
22 answer it. Okay?

23 When you went to meet with the government, you knew  
24 that they wanted to talk to you about Mr. Lin because Dan Jian  
25 told you that.

D4FVLIN3

C. H. Guang - cross

1 Now, do you understand that question?

2 A. Yes.

3 Q. Now, can you answer that question?

4 A. Yes.

5 Q. Okay. And you had conversations before you met with the  
6 government with Dan Jian about Mr. Lin; correct?

7 A. Yes.

8 Q. And you had conversations with other people in Chinatown  
9 about Mr. Lin before you went to meet with the government;  
10 correct?

11 A. No, they are not.

12 Q. Never?

13 A. No.

14 Q. What was the name of the bus company that you owned that  
15 you started, I think, in 2001 with the two vans?

16 A. Hua Yun.

17 Q. And does that have an English translation?

18 THE INTERPRETER: Chinese Transportation.

19 MR. COHEN: The interpreter answers that's what it  
20 meant, Chinese Transportation?

21 THE INTERPRETER: Yes.

22 Q. Okay. Now, eventually there came a time that you owned  
23 other bus companies, too; correct?

24 A. 2004.

25 Q. What was the name of that company?

D4FVLIN3

C. H. Guang - cross

1 A. Sky Express.

2 Q. Sky Express. You owned that company by yourself or with  
3 other people?

4 A. Four partners.

5 Q. And was there a written partnership agreement?

6 A. Yes.

7 Q. And were you one of the people whose names was on that  
8 agreement?

9 A. No, my wife's name was on there.

10 Q. And, in fact, the reason your wife's name was on it was  
11 because you had no legal status in the United States; correct?

12 A. Yes.

13 Q. So in an effort to conceal the true ownership of the  
14 company from the government, you had your wife sign instead of  
15 yourself; correct?

16 MR. SKINNER: Objection.

17 THE COURT: Overruled.

18 A. I do not understand.

19 Q. The reason that you've put your shares of the company in  
20 your wife's name was to conceal from the government the fact  
21 that one of the owners was an illegal alien; correct?

22 A. I was an illegal immigrant.

23 Q. And that's the reason that you put the company in your  
24 wife's name, because you wanted to conceal from the government  
25 the fact that an illegal immigrant owned that company; correct?



D4FVLIN3

C. H. Guang - cross

1 A. I do not have any work card and I could not register.

2 Q. And is it for those reasons, sir, that you put the company  
3 in your wife's name?

4 A. Yes.

5 Q. How many people were killed in accidents in buses operated  
6 by Sky Express while you owned it?

7 MR. SKINNER: Objection, your Honor.

8 THE COURT: Objection sustained.

9 Q. While you owned Sky Express, were there fatal accidents  
10 involving Sky Express?

11 MR. SKINNER: Objection, your Honor.

12 THE COURT: Objection sustained.

13 I have just sustained an objection to that, Mr. Cohen.

14 MR. COHEN: I'll move on, Judge.

15 Q. Is Sky Express still in business?

16 A. No.

17 Q. What happened?

18 MR. SKINNER: Objection, your Honor.

19 THE COURT: Overruled.

20 A. There was an accident when the bus flipped in May of 2009.

21 Q. And was it after that accident that the government shut the  
22 company down?

23 THE COURT: Objection sustained.

24 Let's move on.

25 Q. When did you first come to the United States?

D4FVLIN3

C. H. Guang - cross

1 A. March 1995.

2 Q. And how did you get here?

3 A. Smuggled in.

4 Q. Where did you enter the United States?

5 A. California.

6 Q. And did there come a time after you entered the United  
7 States that you applied for political asylum?

8 A. In 2002.

9 Q. And, by the way, when you entered the United States, were  
10 you carrying any identification documents with you?

11 A. No.

12 Q. Did you ever use the name Wu Han Min?

13 A. No.

14 Q. Your name is Huo Guang Chen; correct?

15 A. Yes.

16 Q. And you say that you've never used the name Han Min Wu?

17 A. No.

18 MR. COHEN: Your Honor, may I approach the witness?

19 THE COURT: Very well.

20 Q. Let me show you a document, 3503-11, ask you to take a look  
21 at it, tell me if you recognize it.

22 MR. SKINNER: Can I see it?

23 MR. COHEN: Of course.

24 Q. Now, I know you don't read English, but I'm going to show  
25 you the entire document, ask you if you recognize it.

D4FVLIN3

C. H. Guang - cross

1 Do you recognize that signature?

2 A. That's my signature.

3 Q. Recognize that photograph?

4 A. Yes.

5 Q. Okay. I'm going to ask the interpreter to read this name  
6 to you, and ask if it refreshes your recollection that you used  
7 the name Wu Han Min.

8 A. No, I never used it.

9 Q. And you say that when you entered the United States, you  
10 had no documents with you.

11 A. Correct.

12 Q. By the way, does it sound about right that you filed your  
13 petition for asylum in April of 2002?

14 A. 2012?

15 Q. Two, 2002.

16 A. I don't remember whether it was in April or May of 2002. I  
17 did apply for one in California.

18 Q. Okay. And you told us, I think, that you came here in  
19 when?

20 A. March of '95.

21 Q. Okay. After you left China in March of '95, between then  
22 and 2002, did you return to China?

23 A. No.

24 Q. So when you wrote on this document that you last entered  
25 the United States on March 19th of 2002, that was a lie;

D4FVLIN3

C. H. Guang - cross

1 correct?

2 A. Yes.

3 Q. Because, in fact, you left China seven years before that;  
4 correct?

5 A. Yes.

6 Q. And when you wrote on this document that your religion was  
7 Christianity, that was also a lie; correct?

8 A. Yes.

9 Q. Because you were not a Christian, were you?

10 A. Yes.

11 Q. And did someone help you prepare this document?

12 A. At that time, I asked a law firm in California to help me  
13 fill it out.

14 Q. And were there people at the law firm that understood  
15 Chinese?

16 A. Yes.

17 Q. By the way, what city were you born in in China?

18 A. In Fuzhou.

19 Q. Fuzhou City?

20 A. Fuzhou City, Changle County.

21 Q. And is it true that you filed a lengthy, several-pages  
22 statement as to why you were seeking asylum in the United  
23 States?

24 A. Yes.

25 Q. Now, in that statement, is it true that you told them that

D4FVLIN3

C. H. Guang - cross

1 you were born in Chang Sha City in Hunan Province?

2 A. That was on my fake document.

3 Q. On what?

4 A. On my fake document.

5 Q. What fake documents were those, sir?

6 A. My birthplace at Hunan Chang Sha.

7 Q. What fake documents did you have that contained that  
8 information?

9 A. At that time, I had a friend that could help me obtain a  
10 household registration account and identification from Hunan  
11 City with a photo, and that's why I did that.

12 Q. So you had documents in your possession that were  
13 fraudulent; correct?

14 A. Yes, a friend of mine gave it to me.

15 Q. And what the friend of yours gave you were fraudulent  
16 documents that had your pictures on them; correct?

17 A. Yes.

18 Q. Do you have those documents still?

19 A. No, I submitted them all to immigration when I went to  
20 court.

21 Q. And what name was on those documents?

22 A. It was my name.

23 Q. It didn't have the name Han Min Wu on it?

24 A. No.

25 Q. So if that name wound up on your asylum application, you

D4FVLIN3

C. H. Guang - cross

1 wouldn't have any knowledge of how it got there; correct?

2 A. Right.

3 Q. Now, in your asylum application, you claimed that you had  
4 been converted to Christianity in China, right?

5 A. Yes.

6 Q. And you told them in your application that you met a  
7 wonderful young woman with an amazing story; correct?

8 A. These were stories that I made up myself.

9 Q. I understand that. But I want you to tell the jury exactly  
10 what the stories were that you made up, so that's why I'm  
11 asking you these questions.

12 And, by the way, the reason you made these stories up  
13 was because you wanted to get a benefit from the United States  
14 government, right?

15 A. If they accepted the stories, then they would accept my  
16 political asylum application and allow me to stay in the United  
17 States.

18 Q. And the benefit that you wanted to get from the government  
19 was the ability to stay in the United States; correct?

20 A. Yes.

21 Q. And it didn't matter to you what lies you told, as long as  
22 you could stay in the United States; correct?

23 A. Aside from this application, I did not make any lies or  
24 tell any lies other than that to stay in the United States.

25 Q. We're going to get to that. But right now what I'm asking

D4FVLIN3

C. H. Guang - cross

1 you is whether you were willing to tell any lie in this  
2 application that you thought would work as long as it helped  
3 you stay in the United States, is that true, sir?

4 A. Yes.

5 Q. And you told the government in this application that this  
6 wonderful young woman told you about how God saved human  
7 beings; correct? Right?

8 A. I don't really remember the specific that was written in  
9 there.

10 Q. It was written for you.

11 A. I was there with someone else to make up the story.

12 Q. Well, didn't you just tell the jury that you made up the  
13 story?

14 A. More or less. I was there with someone else. I would say  
15 it, and then the person would add to it.

16 Q. So, in other words, you and another person got together to  
17 make up this story?

18 A. Yes.

19 Q. And you don't remember quite all the details in this story  
20 because it was all lies, right?

21 A. Yes.

22 THE COURT: We're going to stop at an appropriate  
23 moment.

24 MR. COHEN: I'm sorry, your Honor?

25 THE COURT: We're going to stop for the lunch recess.

D4FVLIN3

C. H. Guang - cross

1 MR. COHEN: Oh, okay.

2 THE COURT: If this is an appropriate moment.

3 MR. COHEN: This would be a fine time, Judge.

4 THE COURT: Very well.

5 Members of the jury, we're going to take a break now  
6 for lunch. And we're going to come back at 2:15.

7 Have a pleasant lunch.

8 (Jury excused)

9 THE COURT: We will all take a lunch recess at this  
10 time and reconvene at 2:15.

11 MR. SKINNER: Thank you, your Honor.

12 MR. COHEN: Your Honor, may I again remain in the  
13 courtroom to work?

14 THE COURT: It was all right yesterday?

15 MR. COHEN: Yes.

16 THE COURT: Fine.

17 MR. COHEN: Thank you.

18 THE COURT: Although I really prefer that you use the  
19 lawyer's lounge. Very well. You may stay in the courtroom.

20 MR. COHEN: Thank you.

21 (Luncheon recess)

22 (Continued on next page)

23

24

25



D4f6lin4

Chen - cross

## A F T E R N O O N S E S S I O N

2:15 p.m.

THE COURT: Good afternoon. Let's get the jury.

(In open court; jury present)

THE COURT: You may all be seated. Members of the jury, we will continue with the testimony.

You may proceed, Mr. Cohen.

MR. COHEN: Thank you, Judge.

BY MR. COHEN:

Q. Mr. Chen, before we broke for lunch I was asking you some questions about the first application you filed for political asylum. Do you remember that?

A. I do.

Q. I asked you a specific question and you said you didn't quite recall what you had put into it, into the application, correct?

A. Yes.

MR.C: I am going to, with your Honor's permission, ask the interpreter to translate for him this document and then I am going to ask him some questions.

THE COURT: You are in effect showing him the document to refresh his recollection, is that what you are doing?

MR. COHEN: Yes, ma'am.

THE COURT: Very well.

BY MR. COHEN:

D4f6lin4

Chen - cross

1 Q. Mr. Chen, having heard what Ms. Lau read to you? Does that  
2 refresh your recollection with regard to some of the story that  
3 you told the government in your first asylum application?

4 A. I remember a little bit. It's more, less the content of  
5 that.

6 Q. Well, what Ms. Lau just read to you, that is the story you  
7 told to the government in this document, correct?

8 A. Yes. I more, less have a recollection of that.

9 Q. Well, you told them for example that you met this wonderful  
10 young woman, correct?

11 A. Yes.

12 Q. And she told you that she believed in God and you told her  
13 that you didn't, correct?

14 A. Yes. That's what is written on the story.

15 Q. Is that your story that you and this other person concocted  
16 together, correct?

17 A. Yes.

18 Q. And you said suddenly she lifted up the leg of her pants  
19 and you were shocked to see that she had an artificial leg,  
20 correct.

21 A. Yes.

22 Q. She told you it was God that saved her and gave her the  
23 strength for life, correct?

24 A. Yes.

25 Q. Under her guidance you joined a youth fellowship and were

D4f6lin4

Chen - cross

1 baptized and saved and that God brought new life to you,  
2 correct?

3 A. Yes.

4 Q. Is one word of that true?

5 A. From what I remember there wasn't any.

6 Q. Is there any question in your mind that not a single word  
7 of that was true?

8 A. Correct.

9 Q. You also told them that you became a member of a secret  
10 church?

11 A. Correct. Yes.

12 Q. And that you bought a desktop copier so you could make  
13 copies of religious material to spread the gospel, correct?

14 A. I do not remember that.

15 MR. COHEN: Your Honor, may I approach again?

16 THE COURT: Yes.

17 Q. Mr. Chen, did what Ms. Lau just read you refresh your  
18 recollection as to some of the other statements you made in  
19 your asylum application in 2002?

20 A. Yes. Somewhat.

21 Q. Well, do you remember saying that you bought a desktop  
22 copier to copy Christian materials for the church?

23 A. Yes.

24 Q. And that you had secret meetings to spread the gospel among  
25 youth?

D4f6lin4

Chen - cross

1 A. Yes. I remember I wrote that.

2 Q. And that you had to keep the meeting secret because the  
3 Hunan police had been repressing secret religious groups?

4 A. Yes.

5 Q. On Christmas Eve of 2001 at such a meeting a new member who  
6 was an undercover cop let the police in to ambush you; do you  
7 remember saying that?

8 A. If it was written there, then that is what I said.

9 Q. And that you were arrested?

10 A. Yes.

11 Q. Every single word of that is a lie, correct?

12 A. Yes.

13 Q. You didn't even live in Hunan province, correct?

14 A. I was not.

15 Q. On Christmas Eve of 2001 you were in the United States and  
16 not China, correct?

17 A. Correct.

18 Q. If I went through every single word on the second lengthy  
19 page of this document, would there be anything in it that was  
20 true?

21 A. This was a story that I made up so there wasn't anything  
22 that was true.

23 Q. It was all lies, right?

24 A. If I did not remember incorrectly then they were lies.

25 Q. Because you remember that everything that you said was a

D4f6lin4

Chen - cross

1 lie, correct?

2 MR. SKINNER: Asked and answered, your Honor.

3 THE COURT: Overruled.

4 A. Can you repeat the question?

5 Q. Because you remember that everything you put into that  
6 story was a lie, correct?

7 A. Yes.

8 Q. Now, there came a time that you learned that your asylum  
9 application had been turned down, had been rejected by the  
10 government, correct?

11 A. Yes.

12 Q. When was that?

13 A. It was around October of 2002. I don't remember exactly  
14 when.

15 Q. And once you knew that your application had been turned  
16 down, you knew you had to leave the United States, right?

17 A. After it was turned down, I moved from California to New  
18 York, hired an attorney to go to court but I did not go to  
19 court at the end.

20 Q. You hired an attorney to go to court to appeal the decision  
21 that your application was rejected?

22 A. Yes.

23 Q. That attorney actually filed papers on your behalf in court  
24 to appeal that decision, right?

25 A. Yes.

D4f6lin4

Chen - cross

1 Q. Now, but you never went to court?

2 A. Only when I first moved over here I went in to make an  
3 appearance in court.

4 Q. But you never went back after that?

5 A. I did not go back.

6 Q. Was that because if you went back you would be taken into  
7 custody and sent back to China?

8 A. At that time it was the attorney who told me I did not have  
9 to go to court because the Court case was canceled. I don't  
10 know what it was about, but I did not go back to court.

11 Q. The attorney told you that the Court case was canceled and  
12 that it was over?

13 A. At that time I did not understand what he meant. He said  
14 you lost your case. You don't have to go back in.

15 Q. You understood what you meant when he said you lost your  
16 case, right?

17 A. By guessing and by asking other people I knew what he  
18 meant.

19 Q. By what?

20 A. By guessing and by asking other people I knew what he  
21 meant.

22 Q. And you knew that by guessing and asking other people you  
23 knew that it meant that you had no status in the United States,  
24 right?

25 A. Yes. I didn't have any legal status to begin with.

D4f6lin4

Chen - cross

1 Q. But you also didn't have any legal status after you made  
2 this application for asylum and went to court and you lost,  
3 correct?

4 A. Correct.

5 Q. And that is why when it came time to put shares of a bus  
6 company onto a contract and put a name on the contract, you  
7 used your wife's name because you didn't want anyone to find  
8 you because you were here illegally, correct?

9 A. Using my wife's name and the fact that I don't have legal  
10 status is two different things. Because I don't have a social  
11 security number, I could not fill out the shareholders form.

12 Q. Because you knew that you had no status and you were not  
13 supposed to be in the United States, correct?

14 A. Yes.

15 Q. You knew you weren't supposed to be working and earning  
16 money in the United States, correct?

17 A. Yes.

18 Q. Now, by the way eventually after you started this small  
19 company and eventually became a shareholder in Sky Express,  
20 there came a time that you and your partners owned 33 large  
21 buses, correct?

22 A. Yes.

23 Q. And it was a successful business from which you made a lot  
24 of money, correct?

25 A. After I expanded it, I borrowed money to expand the

D4f6lin4

Chen - cross

1 company. Before I started making money, the vehicle flipped  
2 over.

3 Q. There came a time when with 33 buses running up and down  
4 the east coast and elsewhere you were making a lot of money,  
5 correct?

6 A. I had not started making money.

7 Q. Did you ever start making money, sir?

8 A. I had not started making money. The parters had just put  
9 everything in place. Just put in the money that was borrowed  
10 and then their vehicle flipped over. For each ticket from New  
11 York to Charlotte, North Carolina it is a 12 hours ride. The  
12 bus ticket was only \$30 each. How could I make any money from  
13 that?

14 Q. Was the most money you made in any one year from your work  
15 in the bus business?

16 A. Without counting my own salary approximately \$5,000 a  
17 month.

18 Q. With counting your own salary?

19 A. My salary was one to \$2,000 for answering the phone calls  
20 inside.

21 Q. A week? A month?

22 A. Per month.

23 Q. So you were making roughly six, \$7,000 a month?

24 A. Yes.

25 Q. You never made more than that?



D4f6lin4

Chen - cross

1 A. That's the average. Sometimes when the business was bad I  
2 didn't even make any money.

3 Q. Did you file income tax returns?

4 A. I filed personal income taxes for two to three years.

5 Q. Two to three years?

6 A. But I did not file it here.

7 Q. Where did you file it?

8 A. I filed it for the grocery store.

9 Q. You owned a grocery store?

10 A. I opened a grocery store with someone else in Charlotte.

11 Q. In North Carolina?

12 A. Yes.

13 Q. So you paid taxes on the money that you made at the grocery  
14 store?

15 A. I didn't make any money from there.

16 Q. Sir, did you ever pay any taxes on the money you made from  
17 the bus company?

18 A. From what I remember I did not pay taxes.

19 Q. Did you file returns?

20 A. No.

21 Q. Now, in 2012 you filed another asylum application, right?

22 A. Yes.

23 Q. And I think you told us this morning that everything in  
24 that 2012 application was true, is that right?

25 A. Yes.

D4f6lin4

Chen - cross

1 Q. Are you sure about that?

2 A. Yes.

3 Q. Now, you testified last week or this morning that you are  
4 testifying under a grant of immunity, right?

5 A. Yes.

6 Q. What is the reason that you wanted to have immunity before  
7 you agreed to testify in this case?

8 MR. SKINNER: Objection, your Honor.

9 THE COURT: Overruled.

10 A. Because I smoked marijuana and also this incident related  
11 to the bus being flipped over.

12 Q. Is it a fair statement that one of the reasons that you  
13 wanted immunity was because you were afraid that you might be  
14 prosecuted for some of the things you talk about when you  
15 testify?

16 A. Yes.

17 Q. In fact, is it a fair statement that the false statements  
18 you made on your immigration application were a much greater  
19 concern to you than the fact that you smoked marijuana needing  
20 an immunity agreement, correct?

21 A. About this immigration matter I found out that I was  
22 ordered to be deported on March 21, 2013.

23 Q. That is not what I asked you. I am asking you whether the  
24 lies that you told on your application in 2002 was of greater  
25 concern to you than the fact that you smoked marijuana when you

D4f6lin4

Chen - cross

1 asked the government for an immunity agreement?

2 A. At that time I did not just remember that I had immigration  
3 case in 2002. I only remember that I smoked marijuana a  
4 year -- a little over a year ago.

5 Q. So you didn't even remember that in 2002 you filled out  
6 this lengthy elaborate application for political asylum? You  
7 didn't even remember that?

8 A. I remembered, but I just did not know that I was ordered  
9 deported.

10 Q. Didn't you just say that you didn't remember filling out an  
11 asylum application in 2002?

12 A. But my understanding of remembering and whether I knew is  
13 different.

14 Q. How much marijuana have you smoked?

15 MR. SKINNER: Objection, your Honor.

16 THE COURT: Objection sustained. That is stricken.

17 Q. When you filled out this application in 2002, you knew that  
18 all of it was fraudulent, right?

19 A. Yes.

20 Q. Did you know that you can go to federal prison for five  
21 years for filing a fraudulent immigration application?

22 MR. SKINNER: Objection to the tone of the question  
23 and the beating on the podium.

24 THE COURT: Just a moment. Just a moment. I think  
25 you can just rephrase it.

D4f6lin4

Chen - cross

1 MR. COHEN: Of course.

2 THE COURT: For how many years you go, but it is a  
3 crime is what you are saying.

4 Q. Do you know, sir, that it is a felony to make false  
5 statements on an asylum application?

6 A. I knew.

7 Q. Do you know, sir, that once you've made false statements on  
8 an asylum application, you can never get asylum in the United  
9 States?

10 A. Yes.

11 Q. And then you filed this second asylum application, right?

12 A. Yes.

13 Q. Again you claim that you were being persecuted by the  
14 Chinese government, correct?

15 A. Yes.

16 Q. But this time you didn't go with the Christianity story  
17 because it didn't work the first time, correct?

18 A. Because the story happened to me.

19 Q. Well, is it true that when you used your persecution  
20 because you are a Christian that it didn't work?

21 A. When?

22 Q. When? In 2002.

23 A. Which one are you talking about?

24 Q. The application for the asylum when you said to the United  
25 States, Please let me stay here. I am a persecuted Christian

D4f6lin4

Chen - cross

1 and I cannot go back to China.

2 A. Yes. That is what I wrote.

3 Q. And it didn't work, right, because your application was  
4 denied?

5 A. Yes.

6 Q. So in 2012 when you filed another application you came up  
7 with a different reason for being persecuted, correct?

8 A. Yes.

9 Q. This time you said you were being persecuted because of  
10 your belief in democracy and your support for the Chinese  
11 Democratic Party, correct?

12 A. Yes.

13 Q. You didn't make any false statements on this application,  
14 right?

15 A. Yes.

16 Q. Did someone help you fill this application out?

17 A. Yes. I hired people from the service agency to fill it out  
18 for me.

19 Q. The people you hired spoke Chinese, right?

20 A. Yes.

21 Q. Now, didn't you say in this document that you had never  
22 been in any immigration proceedings before?

23 A. No. I did not include that in there.

24 Q. Are you sure about that?

25 A. Yes. I said I did not have any hearing.

D4f6lin4

Chen - cross

1 Q. Somebody translated this for you, correct?

2 A. Yes.

3 MR. COHEN: Can I approach the witness, Judge?

4 THE COURT: You may.

5 Q. So do you remember now this form asks you whether you have  
6 ever been in immigration court proceedings before?

7 A. Yes. I remember they asked.

8 Q. In fact, you said you hadn't been in any immigration court  
9 proceedings before, right?

10 A. Yes.

11 Q. That was a lie, wasn't it?

12 A. Yes.

13 Q. Didn't you say on this document that you never committed a  
14 crime in the United States?

15 A. Yes, I did.

16 Q. That was a lie, wasn't it?

17 A. If you consider the two 2002 case as a crime, then yes.

18 Q. That isn't the only crime you committed, is it?

19 A. No. I did not commit any crime.

20 Q. You didn't commit any other crime?

21 A. No.

22 Q. Not paying your income taxes, is that a crime, sir?

23 A. According to this, yes, it's a crime.

24 Q. Possessing and using drugs, is that a crime?

25 A. Yes. Smoking marijuana is a crime.

D4f6lin4

Chen - cross

1 Q. So when you said on this document just a year or two ago  
2 that you never committed a crime in the United States, that was  
3 a lie also, wasn't it?

4 A. If you consider that then so this is also false.

5 Q. And it asked you, didn't it, this document to provide  
6 information about your employment during the last five years,  
7 correct?

8 A. Yes.

9 Q. And you told them on this form that between 1995 and 2010  
10 you were a ticket seller for Ming Ong Incorporated, correct?

11 A. No. They filled it out wrong. Later I told them to change  
12 it and they did. The one, the original one was filled out. It  
13 was wrongly filled out.

14 Q. So there is another one besides this one that was filled  
15 out later?

16 A. About this 95 to 2010 ticket sales I had told the service  
17 agent people that they had filled it out wrong.

18 Q. Okay. Did you disclose on this document the fact that you  
19 had been an owner or shareholder in several bus companies?

20 A. No.

21 Q. So by leaving that information out that was another lie,  
22 correct?

23 A. So then if the lawyer considers it, then it is a lie?

24 Q. I am not asking what the lawyer considers. I am asking  
25 you, sir, whether by leaving out information about what you've

D4f6lin4

Chen - cross

1 done for your employment, isn't that lying to the government?

2 A. Yes.

3 Q. Now, in this application you said that you couldn't go back  
4 to China because you participated in the Chinese Democratic  
5 Party, correct?

6 A. Yes.

7 Q. And that you had done that before you left to come to the  
8 United States?

9 A. Yes.

10 Q. Is that true?

11 A. Yes.

12 Q. So, sir, my question is if you had a legitimate truthful  
13 reason to seek political asylum in the United States in 2002,  
14 why did you make up this entirely false story?

15 A. Before 2002 I had not encountered the CDP and I did not  
16 know about it. I was working in a restaurant out of state.

17 Q. Did you tell the United States Immigration Service that in  
18 China in November 1994 you were distributing pro-democracy  
19 flyers and you got arrested by the police?

20 A. Yes.

21 Q. And that you were held by the police and beaten and  
22 tortured and forced to confess?

23 A. Yes.

24 Q. And that you promised you would never participate in  
25 antigovernment activities again?



D4f6lin4

Chen - cross

1 A. Yes.

2 Q. Well, if all of that was true, if in fact you were  
3 persecuted in China because of your belief in democracy, why  
4 didn't you just tell the truth in your application instead of  
5 making up this elaborate set of lies?

6 A. What lies?

7 Q. All the lies you told in 2002 about preaching the gospel  
8 and discovering God.

9 A. In 2002 I did not even hear there was such organization as  
10 China Democracy Party.

11 Q. I didn't use the words Chinese Democracy Party in my  
12 question, sir. I am asking you whether it was true that in  
13 1994 you got arrested in China for participating in a  
14 democratic movement why didn't you just put that on your 2002  
15 application?

16 A. Because it had been to my own village or hometown and that  
17 was the story I made up, but they did not connect with each  
18 other.

19 Q. My question that I am asking you, sir, is why if you had a  
20 legitimate fear of persecution because of your political  
21 activities you didn't just tell that to the United States in  
22 2002? Why did you make up a full set of pages and pages of  
23 lies?

24 A. I don't remember what I -- what was my thinking back then.  
25 But at the time people around me such as friends and relatives,

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Chen - cross

1 they all had religion as a basis for asylum. So it would be  
2 easier for them to go to court to have asylum hearings so I  
3 made up this story.

4 Q. So it was because other people told you that you would have  
5 a better chance if you lied that you made up this story?

6 A. Not really telling me that it would be a high chance if I  
7 told a lie. It would be easier if I make up a religious claim  
8 that the judge would easily accept my claim or taking sympathy  
9 upon my situation.

10 Q. In other words that lying to the government would get you  
11 the ability to stay in the United States, correct?

12 A. I do not understand.

13 Q. Aren't you telling the jury that you believed that your  
14 best way to stay in the country was to lie to the government?

15 A. To make up a story hoping that a judge will be more  
16 sympathetic to me.

17 Q. Sir, this is a question that can be answered yes or no. Is  
18 it true that you thought that the best chance you had to stay  
19 in the United States was to lie to the government?

20 A. What do you mean the high chance in lying to the  
21 government? I never thought that to be this big. I was only  
22 trying to make up a story.

23 (Continued on next page)

D4FVLIN5

C. H. Guang - cross

1 Q. Right. And the story you made up was a lie, right?

2 A. Yes.

3 Q. And you told that lie to the government in order to  
4 convince them to let you stay in the United States; correct?

5 A. Yes.

6 Q. And I ask you again, because you haven't answered me, why  
7 is it that if you had a legitimate fear of persecution in China  
8 because of your politics, why did you go with a story that was  
9 completely false?

10 MR. SKINNER: Objection to the form of the question.

11 THE COURT: The witness hasn't yet answered that  
12 question.

13 MR. SKINNER: I think he's tried to answer it a number  
14 of times.

15 THE COURT: Well, I think the questioner is entitled  
16 to an answer to his question.

17 A. Because at the time people around me, such as friends, they  
18 told me that if I apply based on religion, it would be much  
19 easier. At the time I did not encounter this in the United  
20 States, so I could not apply -- cannot apply based on this  
21 democratic party persecution.

22 Q. But you told the jury that you were persecuted in 1994  
23 because you participated in some sort of democratic movement;  
24 correct?

25 A. Yes.

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C. H. Guang - cross

1 Q. And you're telling us now that that was the truth; correct?

2 A. Yes.

3 Q. So isn't it so that when given a choice between lying and  
4 telling the truth, you'd do whichever one you think is going to  
5 work best for you?

6 A. What do you mean? I do not understand.

7 Q. You didn't understand my question, sir?

8 A. I'm just confused by your question, about what two things  
9 that I choose.

10 Q. I'm asking you --

11 THE COURT: I think at this point you should move to  
12 something else. You can come back later.

13 Q. How many meetings have you had with the government to  
14 prepare for your testimony here today, approximately?

15 A. Seven to eight times.

16 Q. And how many of those meetings were arranged by Cash, by  
17 Dan Jian?

18 A. Six to seven times.

19 Q. And you testified that in March, you went to an immigration  
20 office in -- I think you said in Philadelphia or in New Jersey?

21 A. New Jersey.

22 Q. Okay. And what was the purpose of you going there that  
23 day?

24 A. Immigration asylum interview.

25 Q. And that was based on the second application that you

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C. H. Guang - cross

1 filed; correct?

2 A. Yes.

3 Q. What happened when you got there?

4 A. I got there, I went in, and immigration officers show me  
5 the 2002 application and told me that I had been ordered  
6 deported.

7 Q. And what was the next thing that happened?

8 A. And then I was arrested and taken to immigration detention  
9 facility.

10 Q. They put handcuffs on you, right?

11 A. Yes.

12 Q. They said you're not going home, you're coming with us, and  
13 you're going to be deported, right?

14 A. No, they just told me to follow them. That agent told me  
15 that I should not worry about it, that they would not send me  
16 back by plane.

17 Q. That they wouldn't send you back by plane?

18 A. That's what he told me.

19 Q. Were you able to communicate with this agent?

20 A. There was an interpreter during the interview.

21 Q. And during the interview was when they told you that you  
22 had a removal order, and you were taken into custody. Is that  
23 when you told them that you needed to call Agent Tim?

24 A. They handcuffed me and took me to the immigration detention  
25 facility, when I was signing and fingerprinting. And I asked

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C. H. Guang - cross

1 them to let me make a phone call.

2 Q. And who did you call?

3 A. I gave the officer -- the agents a business card. I told  
4 them that if they could make a phone call for me to the agent.  
5 So immigration officer there made the phone call to the agent.

6 Q. And you told them, didn't you, that you were going to  
7 testify for the government in a criminal trial in New York,  
8 right?

9 A. He did not seem like that, but later the agent told them.  
10 I did not know what he was saying. After a while, I signed it,  
11 and then they gave me three pieces of paper and told me to  
12 report on April 22nd to Building No. 26.

13 Q. Did you tell them that you were going to be a witness in a  
14 federal criminal trial on April 8th?

15 A. No, I did not. I did not understand it.

16 Q. Didn't you say there was an interpreter there?

17 A. Interpreter had left. I was taken somewhere else.

18 MR. COHEN: Judge, can I take a moment?

19 THE COURT: Yes.

20 MR. COHEN: Thank you.

21 Judge, would this be an appropriate time to take a  
22 brief recess, and I can get some things organized?

23 THE COURT: Very well. We'll take the mid-afternoon  
24 break at this time.

25 (Jury excused)

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C. H. Guang - cross

1 THE COURT: You may step down.

2 (Witness excused)

3 THE COURT: How much more do you have, Mr. Cohen?

4 MR. COHEN: I would say less than half an hour,  
5 depending on the answers.

6 THE COURT: Very well.

7 We'll all take a five-minute recess.

8 (Recess)

9 THE COURT: Okay. Let's get the jury.

10 MR. SKINNER: Your Honor, may I ask, outside the  
11 presence of the jury --

12 THE COURT: Yes.

13 MR. SKINNER: -- if we're going to be permitted on  
14 redirect to get any questions about the witness's subjective  
15 state of mind?

16 THE COURT: I haven't had an opportunity to read the  
17 pounds of paper you gave me.

18 MR. SKINNER: Very well, your Honor.

19 THE COURT: You'll have to put that over till the  
20 morning.

21 MR. SKINNER: That's fine.

22 (Jury present)

23 THE COURT: You may proceed, Mr. Cohen.

24 MR. COHEN: Thank you, your Honor.

25 BY MR. COHEN:

D4FVLIN5

C. H. Guang - cross

1 Q. Mr. Chen, I'd like to draw your attention to March 21st,  
2 when you were at the immigration office.

3 After you were taken into custody, did you advise the  
4 agents who arrested you that you needed to be a witness here  
5 and asked them to call Agent Varian?

6 A. I only gave the agent -- the agent's business card. I  
7 asked him to help me call him to tell him that I got arrested.  
8 I couldn't really speak very much English, but he understood.

9 Q. Did you say there was a translator there or the translator  
10 left already?

11 A. The interpreter was at the court appearance. And as soon  
12 as I was taken by immigration agents and put in the vehicle,  
13 that interpreter left.

14 Q. So you were actually brought before an immigration judge on  
15 that day and appeared in court?

16 THE INTERPRETER: I'm sorry, can you repeat the  
17 question?

18 Q. So you were actually brought before an immigration judge  
19 that day and appeared in court?

20 A. I did not see the immigration judge. I was at the  
21 immigration detention center, I believe.

22 Q. Didn't you just tell us that you were in immigration court?

23 A. Well, the first time when I went in to make an appearance  
24 for an interview, then I was handcuffed right away.

25 Q. I'm sorry, were you finished?



D4FVLIN5

C. H. Guang - cross

1 A. Then I was taken to another place which I understood it to  
2 be a detention center, but I don't really know.

3 Q. Okay. So at which of those places was the interpreter?

4 A. At the first place for the interview.

5 Q. And was it at the interview that you were taken into  
6 custody?

7 A. Yes.

8 Q. And was it as soon as you were taken into custody that you  
9 gave Agent Varian's card to the agents that took you into  
10 custody?

11 A. At another place I gave it to the agent who took me to  
12 custody, at the second place.

13 Q. And there was no interpreter there?

14 A. No interpreter.

15 Q. So, to your knowledge -- well, did they ask you any  
16 questions in English about why you had a special agent's card  
17 from the Customs and Immigration Service?

18 A. Based on my understanding, he probably did. But I gave him  
19 my -- I'm sorry, I gave him the business card and told him to  
20 call the agent. He called, but I didn't really understand what  
21 they said to each other.

22 Q. So after he called Agent Varian, what happened?

23 A. He said he would help me type up three pieces of papers.  
24 He photographed me, took my photograph, fingerprinted me, and  
25 then gave me three pieces of paper, and told me to report to

D4FVLIN5

C. H. Guang - cross

1 immigration on April 22nd.

2 Q. And then what happened?

3 A. And then he called a taxi for me to -- he told me to call a  
4 taxi myself and told me to go home.

5 Q. So after this agent had a conversation with Agent Varian,  
6 you were released from custody, right?

7 A. Yes.

8 Q. You didn't have to see a judge, did you?

9 A. I did not.

10 Q. You didn't have to post bail to be released, did you?

11 A. No.

12 Q. There was just a phone call between the agent and Varian,  
13 you filled out some papers, and told you to come back, and sent  
14 you off in a taxi; is that your testimony?

15 THE COURT: I think you can move on. We've all heard  
16 the testimony.

17 Q. You testified that no promises had been made to you about  
18 your immigration status; correct?

19 A. There was none.

20 Q. Nobody has promised you that in return for your testimony  
21 here, you'd be able to stay in the United States; correct?

22 A. No one.

23 Q. But you know that you're never going to get political  
24 asylum in this country; correct?

25 A. Yes.

D4FVLIN5

C. H. Guang - cross

1 Q. You know that you're not going to get it because you've  
2 submitted two fraudulent applications for asylum; correct?

3 A. I do not know what the results will be. I do not know what  
4 the reason will be. But I feel that the chance of getting  
5 legal status here would be very, very low.

6 Q. Well, I'm not talking about political asylum now; I'm  
7 asking you whether you believe that there is some way you might  
8 be able to remain in the United States.

9 A. Right now there isn't very much that I can do to stay in  
10 the U.S.

11 Q. Well, do you know which agency of the United States  
12 government decides who stays in the United States and who  
13 doesn't stay?

14 A. Immigration?

15 Q. Yeah. And do you know which agency Agent Tim Varian works  
16 for?

17 A. Federal FBI?

18 Q. Do you really believe that?

19 A. I really cannot answer this question.

20 Q. You don't know that he's an immigration agent?

21 A. I did not.

22 Q. You know though that all of your meetings with him and with  
23 the government were arranged by your boss, right?

24 A. When you say "my boss," who do you mean? The government's  
25 meeting -- what government's meeting? I don't understand.

D4FVLIN5

C. H. Guang - cross

1 Q. You met with the prosecutors and with Agent Varian numerous  
2 times, right?

3 A. Yes.

4 Q. And you told us that most of those meetings were set up by  
5 Cash, by Dan Jian.

6 A. Yes.

7 Q. And you also told us that after you were put in handcuffs  
8 and taken to a detention center because you were ordered  
9 removed, one phone call to Agent Varian got you released;  
10 correct?

11 A. Yes.

12 Q. Now, when you first asked Mr. Lin to join your bus company,  
13 you then were partners with somebody you called Ding Chuan?

14 A. Yes.

15 Q. And Ding Chuan was somebody that you knew for a while;  
16 correct?

17 A. Yes.

18 Q. And, to your knowledge, did Ding Chuan know Mr. Lin?

19 A. Yes, he knew him.

20 Q. Were they from the same village?

21 A. They had a pretty good relationship, too.

22 Q. They had a good relationship, right?

23 A. Yes.

24 Q. And were they from the same village?

25 A. No.

D4FVLIN5

C. H. Guang - cross

1 Q. Okay. But besides having a good relationship with Ding  
2 Chuan, did you understand that Mr. Lin had a good relationship  
3 with the person that wanted to compete with you on your route?

4 THE INTERPRETER: I'm sorry, can you repeat the  
5 question again? I'm sorry.

6 Q. Besides knowing that Mr. Lin had a good relationship with  
7 Ding Chuan, did you also know that Mr. Lin had a good  
8 relationship with the person who wanted to compete with you on  
9 your bus route?

10 A. Yes.

11 Q. In fact, I think you testified the other day that your  
12 understanding was that the owner of the other company and  
13 Mr. Lin were good friends; correct?

14 A. Yes.

15 Q. And the reason that you selected Mr. Lin to mediate this  
16 dispute or this potential dispute was because he and the owner  
17 of the other company were good friends; correct? They gave  
18 each other face.

19 A. Yes.

20 Q. Now, Mr. Skinner asked you some questions earlier about  
21 whether Mr. Lin had ever performed any other service for your  
22 company besides dealing with this competitor; correct?

23 A. No.

24 Q. Well, do you remember that the prosecutor asked you that  
25 question?

D4FVLIN5

C. H. Guang - cross

1 A. He did ask.

2 Q. Okay. And do you remember saying that no, Mr. Lin never  
3 performed any other service?

4 A. I answer that.

5 Q. Okay. And let me ask you this: Did you ever ask Mr. Lin  
6 to perform another service for the company other than that  
7 which you asked him to do?

8 A. No.

9 Q. You said that when you became partners, you and Ding Chuan  
10 and Mr. Lin, that there was no written contract, right?

11 A. Correct.

12 Q. You remember going to a lawyer's office in Chinatown with  
13 Ding Chuan and yourself and Mr. Lin's wife and signing a  
14 partnership agreement or a contract about that company?

15 A. I did not go to sign it.

16 Q. Who did go?

17 A. I do not remember. There wasn't any application of a  
18 company. From what I remember, there wasn't an application for  
19 a company.

20 Q. I'm not talking about an application for a company. I'm  
21 talking about a partnership agreement or a shareholders'  
22 agreement.

23 A. No, I did not go.

24 Q. Did your wife go to sign such a contract, since her name  
25 was the one that was on the company?

D4FVLIN5

C. H. Guang - cross

1 A. No.

2 Q. When you asked Mr. Lin to become a one-third shareholder of  
3 the company, did you ask him to make a financial contribution  
4 or to invest money in the company?

5 A. At that time there was talk about that, but I did not take  
6 any money.

7 Q. Did you ask him for money?

8 A. No.

9 Q. When you say there was talk about it, did he, in fact,  
10 offer to invest money in the company?

11 A. I don't remember. I just know that I did not take any  
12 money.

13 Q. When you went to visit him in the hospital after he had  
14 been stabbed, do you know how long he had been in the hospital?

15 A. I think he was there for two, three days already.

16 Q. And after those two or three days, do you know how much  
17 longer he stayed there?

18 A. Approximately three, four days. I don't know exactly how  
19 many days.

20 Q. How did he look?

21 THE INTERPRETER: I'm sorry?

22 Q. How did he look?

23 A. His mind was clear; he was able to talk.

24 Q. How did he look?

25 A. His face was very pale, and he was lying in bed wearing a

D4FVLIN5

C. H. Guang - cross

1 patient's outfit.

2 Q. Was he in the intensive care unit?

3 A. I don't remember.

4 Q. Did he appear to be in significant pain?

5 A. He looked like he was in pain, why wouldn't he be?

6 Q. Do you know that he was stabbed many times in that  
7 incident?

8 A. I think two, three times.

9 Q. And that was by somebody named Yi Feng?

10 A. Someone that's follow Yi Feng.

11 Q. Yi Feng was a dailo?

12 A. Yes.

13 Q. Now, eventually there came a time that you invited Yiqun to  
14 join your company by you and Ding Chuan each selling him some  
15 shares; correct?

16 A. Yes.

17 Q. And did he pay you for those shares or did you just give  
18 them to him?

19 A. He paid me.

20 Q. And Yiqun, I think you've told the government, had helped  
21 other bus companies in the past with their competitors;  
22 correct?

23 A. I did not say that.

24 Q. You don't recall saying that?

25 A. I definitely didn't tell you.



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C. H. Guang - cross

1 Q. I'm sorry?

2 A. I definitely did not tell you.

3 Q. I know you didn't tell me. I'm talking about what you told  
4 them.

5 A. Told who?

6 Q. The prosecutors.

7 A. I said he has face, and that people in Chinatown listen to  
8 him. And he could mediate.

9 Q. Why did he have face?

10 A. Because he treats people very nice, and people like to be  
11 his friends and like to hang out with him.

12 Q. During the time that you knew him, was he ever in prison?

13 A. I do not remember. I don't know.

14 Q. During the time you knew him, did he ever associate with  
15 members of the Tung Lung gang?

16 A. I do not know. That has to do with him and a long, long  
17 time ago.

18 Q. So a long, long time ago he associated with people in the  
19 Tung Lung gang?

20 A. I do not know.

21 Q. You just said it was a long time ago. Was it a long time  
22 ago that he associated with members of the Tung Lung?

23 A. No, I do not know whether he associate with the Tung Lung.

24 I don't understand the question you asking me.

25 Q. Well, when you just said that was a long time ago, what

D4FVLIN5

C. H. Guang - cross

1 were you referring to?

2 A. You asked me if he hung out with the Tung Lung people from  
3 the time that I met Yiqun. I know that he was very nice and  
4 friendly to his friends.

5 Q. You didn't answer my question about whether or not you knew  
6 him to associate with the Tung Lung.

7 A. I do not know. I don't know who are considered the Tung  
8 Lung people and whatnot.

9 Q. Did he hang out with gangsters?

10 A. He hangs out with a lot of people. Some people gamble in  
11 the gambling parlor, and some people he had dinner with  
12 outside.

13 Q. Did he hang out with gangsters?

14 A. He and Yi Feng were friends. Does that consider them  
15 hanging out with one another?

16 Q. I don't know. I don't know Yi Feng. But besides Yi Feng,  
17 was he friendly with other dailos?

18 A. When you ask me about other dailo, I don't know who else is  
19 qualified to be a dailo.

20 Q. Was Yiqun a loan shark?

21 A. I heard that he did some loan-sharking, but that's his  
22 lifestyle. That is a very common way of making a living in  
23 Chinatown for these people that hang out.

24 Q. Loaning money at loan-shark rates is a common way to make a  
25 living, is that what you're telling us?

D4FVLIN5

C. H. Guang - cross

1 A. Yes.

2 Q. Now, did you ever see any tattoos that he couldn't have?

3 A. I don't remember whether I did or not.

4 Q. Do you recall that he had a very large pirate tattoo?

5 A. I do not remember.

6 Q. Do you recall that he had a tattoo of jaggy barbed wire  
7 around his bicep?

8 A. I do not remember.

9 Q. Now, you said -- I think you testified earlier that there  
10 came a time that after Yiqun joined the company, that he said  
11 stop paying Mr. Lin an extra \$2,000 a month.

12 A. It was about one year after he joined the company.

13 Q. Okay. And what happened one year after he joined the  
14 company?

15 A. Nothing happened, except in June of 2004, he asked me how  
16 much money was set aside for the company.

17 Q. And eventually, Yiqun said, Don't pay Mr. Lin the extra  
18 \$2,000; correct?

19 A. He wouldn't agree to pay. He said there's no reason to  
20 pay.

21 Q. Okay. And did you communicate that to Mr. Lin in some way?

22 A. Yes, I called him to tell him.

23 Q. Okay. And was he angry?

24 A. He was angry.

25 Q. Did he say that he would beat up Yiqun the next time he saw

D4FVLIN5

C. H. Guang - cross

1 him?

2 A. He didn't say that. At that time this is what he said: I  
3 know which person did not agree to pay this money. He said  
4 that since he doesn't give me face, and I won't be courteous of  
5 him the next time.

6 (Continued on next page)

D4F6LIN6

Chen - cross

1 BY MR. COHEN:

2 Q. You don't recall telling the government at a meeting, and  
3 this is 3503-4, on July 23rd of 2012 that Ding Pa was upset and  
4 said that Yi Qun thinks he is just a big shot, I will beat him  
5 up the next time I see him? You don't remember telling the  
6 government that?

7 A. He did curse out someone. But when he said the next time I  
8 see him, I will not be courteous to him, it is more, less that  
9 is what it means.

10 Q. Now, I am now asking what it means. I am asking you  
11 whether on July 23rd you told the government that Ding Pa was  
12 upset, said he thinks is he just a big shot, I will beat him up  
13 the next time I see him? Do you remember telling the  
14 government that?

15 A. Are you saying that Ding Pa was saying this about Yi Qun or  
16 Yi Qun saying this about Ding Pa?

17 Q. I am asking you, sir, whether you told the government that  
18 Ding Pa was upset after you told him that you weren't going to  
19 give him the extra \$2,000 a month and that Ding Pa said that Yi  
20 Qun thinks is he a big shot I will beat him up the next time I  
21 see him?

22 A. I only said that Ding Pa was upset and he said why if he  
23 thinks he is a big shot. He didn't state the name. Next time  
24 I see him, I will give him problems. He did not tell me Yi  
25 Qun's name.

D4F6LIN6

Chen - cross

1 Q. I want to show you a document. I am going to ask the  
2 interpreter to translate a very small portion of it, and ask  
3 you, sir, if it refreshes your memory about exactly what you  
4 told the government.

5 MR. COHEN: May I, Judge?

6 THE COURT: Go ahead.

7 Q. So, have you had a chance to listen to the interpreter  
8 translate that?

9 A. Yes.

10 Q. Does that refresh your recollection as to what you told the  
11 government on July the 23rd when you met with them regarding  
12 what Ding Pa said about Yi Qun?

13 A. I think what I've said today and when I said it on  
14 July 23rd is almost the same meaning. But if you want to be  
15 that exact every time when I speak to the government, there  
16 will always be something a little different. It is almost  
17 impossible for me to remember everything that I said.

18 Q. Is that because it is harder to remember a story than it is  
19 to remember the truth, sir?

20 MR. SKINNER: Objection, Judge.

21 THE COURT: Overruled.

22 A. About this, the story from the truth I think has nothing to  
23 do with each other.

24 THE COURT: Let's move on.

25 Q. You say that after the shooting of Yi Qun you heard about

D4F6LIN6

Chen - cross

1 it, right?

2 A. Yes.

3 Q. And that at some point you had a conversation with Mr. Lin  
4 about it?

5 A. In about a few days. Four, five days. In a week.

6 Q. And that was when you say Mr. Lin called you?

7 A. Yes.

8 Q. Now, at that point you had already heard that Yi Qun was  
9 dead, right?

10 A. Yes.

11 Q. And there were rumors and stories going on around the  
12 community or out in Chinatown about what had happened?

13 A. Yes.

14 Q. And you say that you asked Mr. Lin what happened and  
15 basically he told you that this kid from the north  
16 misunderstood something that he said, correct?

17 A. Yes.

18 Q. And that he didn't mean for this kid from the north to kill  
19 Yi Qun or anybody else, correct?

20 A. Oh, he meant to shoot Yi Qun in his arms or legs.

21 Q. So in other words he was telling you that he did not intend  
22 that Yi Qun would be killed, correct?

23 A. That's what he told me. But whatever he was thinking  
24 himself -- that is what he meant, that is what he told me.

25 Q. We can believe your testimony here word for word because

D4F6LIN6

Chen - cross

1 you've been so truthful with the government in the past,  
2 correct?

3 THE COURT: Objection sustained.

4 What is the next question?

5 MR. COHEN: I have no further questions, Judge.

6 THE COURT: This is a good time to recess for the day.  
7 We will reconvene tomorrow morning at the same time, 10:00.  
8 Those you who do come at 9:30 will have coffee and muffins.  
9 You have all been very prompt and I commend you for it. So I  
10 will see you tomorrow morning at 10:00. Have a pleasant  
11 evening. Please do not be tempted to look at anything that  
12 reference to this trial if you should come upon such a thing.  
13 Very well.

14 (Jury excused)

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D4F6LIN6

Chen - cross

1 (In open court; jury not present).

2 THE COURT: You may step down.

3 How long do you anticipate redirect will take?

4 MR. SKINNER: Five to 10 minutes, your Honor.

5 THE COURT: Very well. Who is your next witness?

6 MR. SKINNER: Qun Li.

7 THE COURT: Thank you.

8 MR. SKINNER: Your Honor, I should add that if you

9 review the cases and you are going to give us leeway --

10 THE COURT: Of course. I understand that.

11 MR. SKINNER: Even then it will not be particularly

12 long.

13 THE COURT: Very well.

14 MS. BURNS: Thank you, your Honor.

15 THE COURT: You are all excused.

16 MR. SKINNER: Thank you, your Honor.

17 THE COURT: Case is adjourned until tomorrow morning.

18 (Adjourned to April 16, 2013 at 10:00 a.m.)

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